THE NOÉ EDITION

תלמוד בבלי

KOREN TALMUD BAVLI

KOREN TALMUD BAVLI

BEKHOROT

COMMENTARY BY
RABBI ADIN
EVEN-ISRAEL
STEINSALTZ

THE NOÉ EDITION



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Koren Talmud Bavli
THE NOÉ EDITION

BEKHOROT



Steinsaltz Center



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תלמוד בבלי

KOREN TALMUD BAVLI

THE NOÉ EDITION

בכורות

BEKHOROT

COMMENTARY BY

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הִנֵּה יָמִים בָּאִים, נְאֻם אֲדֹנָי יֱהוִה, וְהִשְׁלַחְתִּי רָעָב בָּאָרֶץ,
לֹא־רָעָב לַלֶּחֶם וְלֹא־צָמָא לַמַּיִם, כִּי אִם־לִשְׁמֹעַ אֵת דִּבְרֵי יהוה.

Behold, days are coming – says the LORD God –
I will send a hunger to the land, not a hunger for bread
nor a thirst for water, but to hear the words of the LORD.

(AMOS 8:11)

The Noé edition of the Koren Talmud Bavli
with the commentary of Rabbi Adin Even-Israel Steinsaltz
is dedicated to all those who open its cover
to quench their thirst for Jewish knowledge,
in our generation of Torah renaissance.

This beautiful edition is for the young, the aged,
the novice and the savant alike,
as it unites the depth of Torah knowledge
with the best of academic scholarship.

Within its exquisite and vibrant pages,
words become worlds.

It will claim its place in the library of classics,
in the bookcases of the Beit Midrash,
the classrooms of our schools,
and in the offices of professionals and businesspeople
who carve out precious time to grapple with its timeless wisdom.

For the Student and the Scholar

DEDICATED BY LEO AND SUE NOÉ

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Once upon a time, under pressure of censorship,
printers would inscribe in the flyleaves
of volumes of the Talmud:

Whatever may be written herein about gentiles
does not refer to the gentiles of today,
but to gentiles of times past.

Today, the flyleaves of our books bear a similar inscription,
albeit an invisible one:

Whatever may be written herein about Jews
does not refer to the Jews of today,
but to Jews who lived in other times.

So we are able to sit down and study Torah, Talmud,
books of ethics, or books of faith
without considering their relevance to our lives.

Whatever is written there
does not apply to us or to our generation,
but only to other people, other times.

We must expunge from those invisible prologues
the notion that the words are written about someone else,
about others, about anyone but us.

Whether the book is a volume of Torah,
a tractate of the Talmud, or a tract of faith,
the opposite must be inscribed:

Whatever is written herein refers only to me;
is written for me and obligates me.

First and foremost, the content is addressed to me.

— From a public address by Rabbi Adin Even-Israel Steinsaltz
as quoted in חיי עולם (*Talks on Parashat HaShavua*)
Maggid Books, 2011

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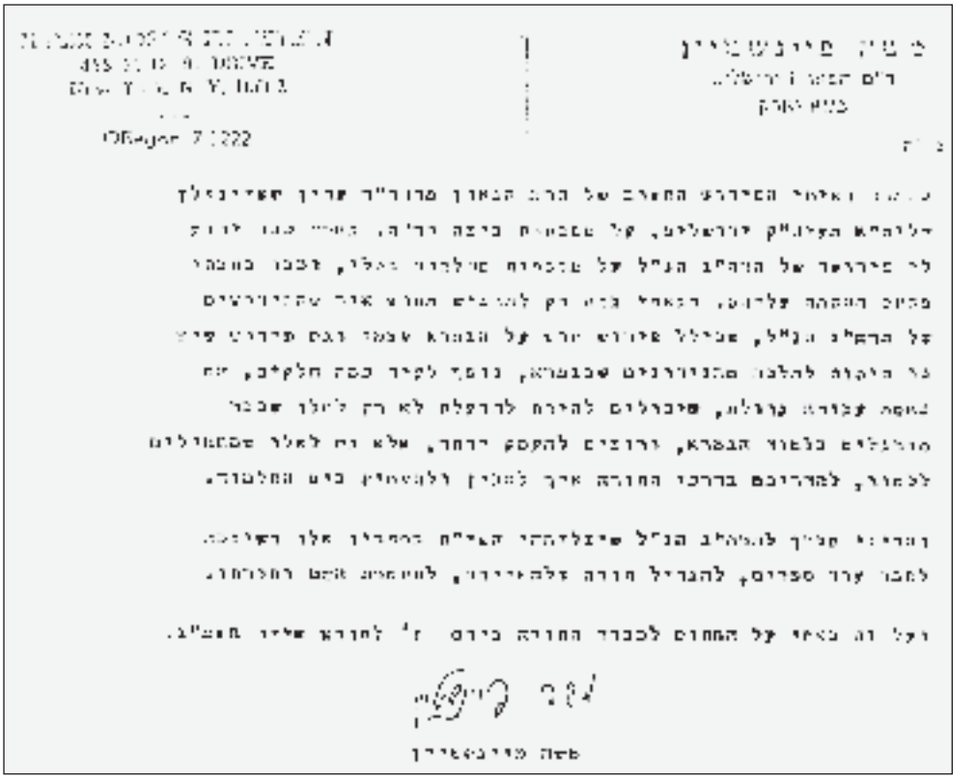
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Haskama

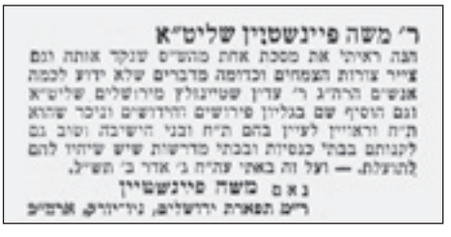
Rabbi Moshe Feinstein



…These new commentaries – which include a new interpretation of the Talmud, a halakhic summary of the debated issues, and various other sections – are a truly outstanding work; they can be of great benefit not only to those familiar with talmudic study who seek to deepen their understanding, but also to those who are just beginning to learn, guiding them through the pathways of the Torah and teaching them how to delve into the sea of the Talmud.

I would like to offer my blessing to this learned scholar. May the Holy One grant him success with these volumes and may he merit to write many more, to enhance the greatness of Torah, and bring glory to God and His word…

Rabbi Moshe Feinstein
New York, 7 Adar 5743



ר' משה פיינשטיין שליט"א
הנה ראיתי את מסכת אחת מהש"ס שנקד אותה וגם צייר צורות הצמחים וכדומה מדברים שלא ידוע לכמה אנשים הרחיב ר' עדין שטיינזלץ מירושלים שליט"א וגם הוסיף שם בגליון פירושים החדושים וניכר שהוא ת"ח וראויין לעיין בהם ת"ת ובני הישיבה ושוב גם לקנותם בבתי כנסיות ובבתי מדרשות שיש שיהיו להם להועלת. — ועל זה באתי עה"ח ג' אדר ב' תשי"ל.
נאום משה פיינשטיין
ראש הסאות ירושלים, ניו־יורק, אמריקא

I have seen one tractate from the Talmud to which the great scholar Rabbi Adin Steinsaltz שליט"א has added *nikkud* (vowels) and illustrations to explain that which is unknown to many people; he has also added interpretations and innovations, and is evidently a *talmid ḥakham*. *Talmidei ḥakhamim* and yeshiva students ought to study these volumes, and synagogues and *batei midrash* would do well to purchase them, as they may find them useful.

Rabbi Moshe Feinstein
New York, Adar 5730

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…I have just had the pleasant surprise of receiving tractate *Shabbat* (part one), which has been published by [Rabbi Steinsaltz] along with his explanations, etc. Happy is the man who sees good fruits from his labors. May he continue in this path and increase light, for in the matters of holiness there is always room to add – and we have been commanded to add – for they are linked to the Holy One, Blessed be He, Who is infinite. And may the Holy One grant him success to improve and enhance this work, since the greater good strengthens his hand…

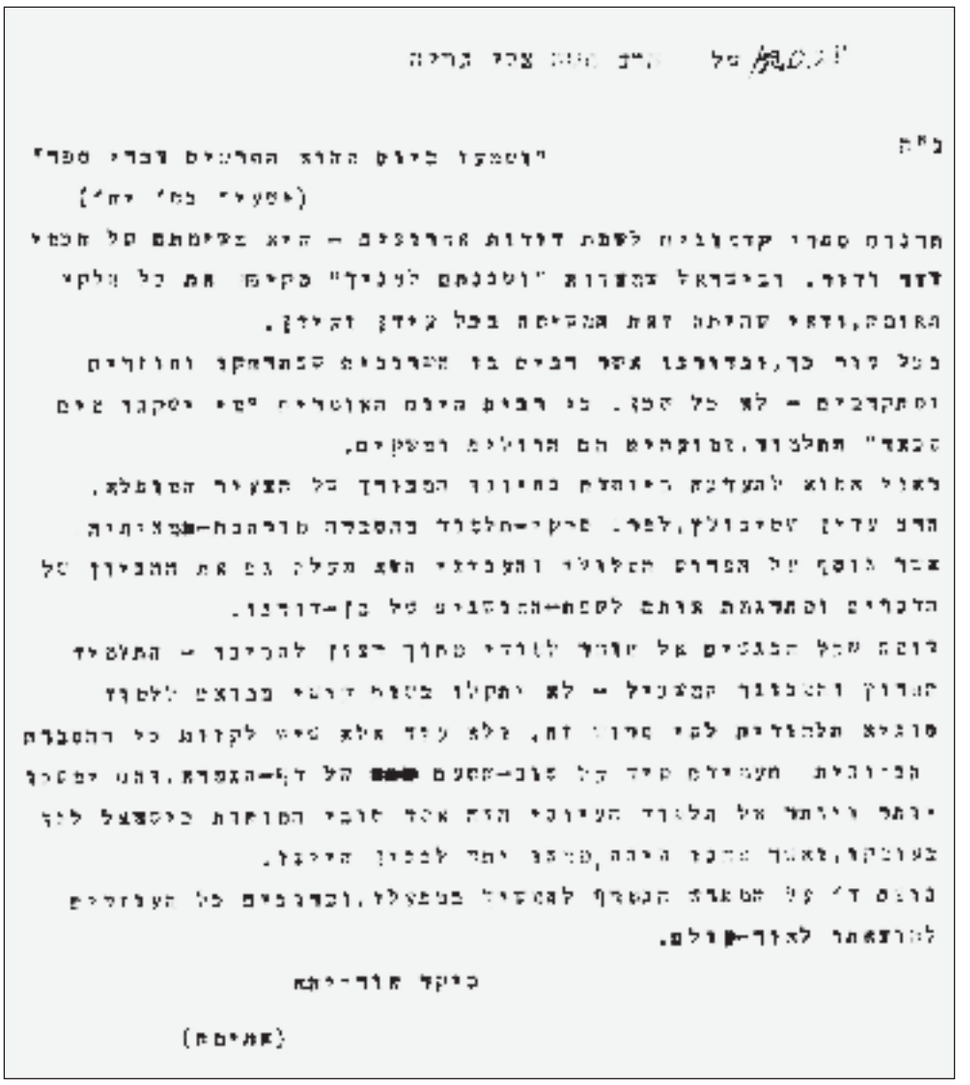
Rabbi Menachem Mendel Schneerson
The Lubavitcher Rebbe
Brooklyn, 5 Marḥeshvan 5729

Haskama
Rabbi Menachem Mendel Schneerson

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Haskama

Rabbi Moshe Zvi Neria



The translation of the books of our past into the language of the present – this was the task of the sages of every generation. And in Israel, where the command to "teach them repeatedly to your children" applies to all parts of the nation, it was certainly the task of every era. This is true for every generation, and in our time – when many of those who have strayed far are once again drawing near – all the more so. For many today say, "Who will let us drink from the well" of Talmud, and few are those who offer up the waters to drink.

We must, therefore, particularly commend the blessed endeavor of Rabbi Adin Steinsaltz to explain the chapters of the Talmud in this extensive yet succinct commentary, which, in addition to its literal interpretation of the text, also explicates the latter's underlying logic and translates it into the language of our generation.

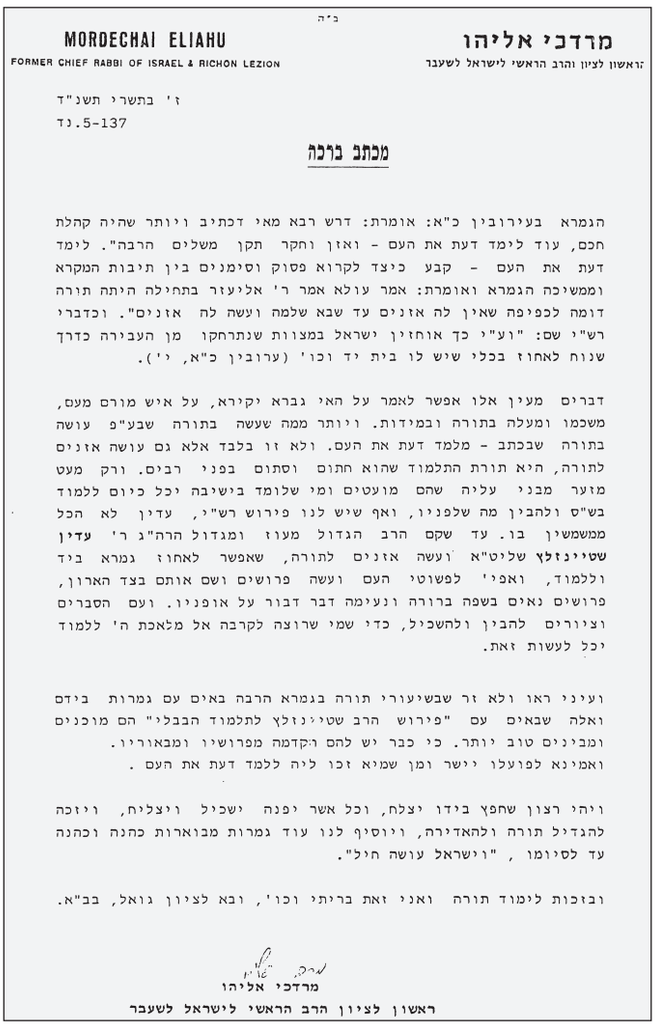
It appears that all those who seek to study Talmud – the diligent student and the learned adult – will have no difficulty understanding when using this commentary. Moreover, we may hope that the logical explanation will reveal to them the beauty of the talmudic page, and they will be drawn deeper and deeper into the intellectual pursuit which has engaged the best Jewish minds, and which serves as the cornerstone of our very lives…

Rabbi Moshe Zvi Neria

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Haskama

Rabbi Mordechai Eliyahu



ב״ה

MORDECHAI ELIAHU
FORMER CHIEF RABBI OF ISRAEL & RICHON LEZION

מרדכי אליהו
הראשון לציון והרב הראשי לישראל לשעבר

ז' בתשרי תשנ"ד
נד.5-137

מכתב ברכה

הגמרא בעירובין כ"א: אומרת: דרש רבא מאי דכתיב ויותר שהיה קהלת חכם, עוד לימד דעת את העם - ואזן וחקר תקן משלים הרבה". לימד דעת את העם - קבע כיצד לקרוא פסוק וסימנים בין תיבות המקרא וממשיכה הגמרא ואומרת: אמר עולא אמר ר' אליעזר בתחילה היתה תורה דומה לכפיפה שאין לה אזנים עד שבא שלמה ועשה לה אזנים". וכדברי רש"י שם: "וע"י כך אוחזין ישראל במצוות שנתרחקו מן העבירה כדרך שנוח לאחוז בכלי שיש לו בית יד וכו' (ערובין כ"א, י').

דברים מעין אלו אפשר לאמר על האי גברא יקירא, על איש מורם מעם, משכמו ומעלה בתורה ובמידות. ויותר ממה שעשה בתורה שבע"פ עושה בתורה שבכתב - מלמד דעת את העם. ולא זו בלבד אלא גם עושה אזנים לתורה, היא תורת התלמוד שהוא חתום וסתום בפני רבים. ורק מעט מזער מבני עליה שהם מועטים ומי שלומד בישיבה יכל כיום ללמוד בש"ס ולהבין מה שלפניו, ואף שיש לנו פירוש רש"י, עדין לא הכל ממשמשין בו. עד שקם הרב הגדול מעוז ומגדול הרה"ג ר' **עדין שטיינזלץ** שליט"א ועשה אזנים לתורה, שאפשר לאחוז גמרא ביד וללמוד, ואפי' לפשוטי העם ועשה פרושים ושם אותם בצד הארון, פרושים נאים בשפה ברורה ונעימה דבר דבור על אופניו. ועם הסברים וציורים להבין ולהשכיל, כדי שמי שרוצה לקרבה אל מלאכת ה' ללמוד יכל לעשות זאת.

ועיני ראו ולא זר שבשיעורי תורה בגמרא הרבה באים עם גמרות בידם ואלה שבאים עם "פירוש הרב שטיינזלץ לתלמוד הבבלי" הם מוכנים ומבינים טוב יותר. כי כבר יש להם הקדמה מפרושיו ומבאוריו. ואמינא לפועלו יישר ומן שמיא זכו ליה ללמד דעת את העם.

ויהי רצון שחפץ בידו יצלח, וכל אשר יפנה ישכיל ויצליח, ויזכה להגדיל תורה ולהאדירה, ויוסיף לנו עוד גמרות מבוארות כהנה וכהנה עד לסיומו, "וישראל עושה חיל".

ובזכות לימוד תורה ואני זאת בריתי וכו', ובא לציון גואל, בב"א.

מרדכי אליהו
ראשון לציון הרב הראשי לישראל לשעבר

The Talmud in *Eruvin* 21b states: Rava continued to interpret verses homiletically. What is the meaning of the verse: "And besides being wise, Kohelet also taught the people knowledge; and he weighed, and sought out, and set in order many proverbs" (Ecclesiastes 12:9)? He explains: He taught the people knowledge; he taught it with the accentuation marks in the Torah, and explained each matter by means of another matter similar to it. And he weighed [*izen*], and sought out, and set in order many proverbs; Ulla said that Rabbi Eliezer said: At first the Torah was like a basket without handles [*oznayim*] until Solomon came and made handles for it. And as Rashi there explains: And thus were Israel able to grasp the mitzvot and distance themselves from transgressions – just as a vessel with handles is easily held, etc.

Such things may be said of this beloved and eminent man, a great sage of Torah and of virtue. And far more than he has done with the Oral Torah, he does with the Written Torah – teaching the people knowledge. And beyond that, he also affixes handles to the Torah, i.e., to the Talmud, which is obscure and difficult for many. Only the intellectual elite, which are a precious few, and those who study in yeshiva, can today learn the Talmud and understand what it says – and even though we have Rashi, still not everyone uses him. But now the great scholar Rabbi Adin Steinsaltz שליט״א has come and affixed handles to the Torah, allowing the Talmud to be held and studied, even by simple men. And he has composed a commentary alongside the text, a fine commentary in clear, comprehensible language, "a word fitly spoken" with explanations and illustrations, so that all those who seek to study the work of God can do so.

Rabbi Mordechai Eliyahu
Former Chief Rabbi of Israel, 7 Tishrei 5754

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Message from Rabbi Adin Even-Israel Steinsaltz

The Talmud is the cornerstone of Jewish culture. True, our culture originated in the Bible and has branched out in directions besides the Talmud, yet the latter's influence on Jewish culture is fundamental. Perhaps because it was composed not by a single individual, but rather by hundreds and thousands of Sages in *batei midrash* in an ongoing, millennium-long process, the Talmud expresses the deepest themes and values not only of the Jewish people, but also of the Jewish spirit. As the basic study text for young and old, laymen and learned, the Talmud may be said to embody the historical trajectory of the Jewish soul. It is, therefore, best studied interactively, its subject matter coming together with the student's questions, perplexities, and innovations to form a single intricate weave. In the entire scope of Jewish culture, there is not one area that does not draw from or converse with the Talmud. The study of Talmud is thus the gate through which a Jew enters his life's path.

The *Koren Talmud Bavli* seeks to render the Talmud accessible to the millions of Jews whose mother tongue is English, allowing them to study it, approach it, and perhaps even become one with it.

This project has been carried out and assisted by several people, all of whom have worked tirelessly to turn this vision into an actual set of books to be studied. It is a joyful duty to thank the many partners in this enterprise for their various contributions. Thanks to Koren Publishers Jerusalem, both for the publication of this set and for the design of its very complex graphic layout. Thanks of a different sort are owed to the Steinsaltz Center and its director, Rabbi Menachem Even-Israel, for their determination and persistence in setting this goal and reaching it. Many thanks to the translators, editors, and proofreaders for their hard and meticulous work. Thanks to the individuals and organizations that supported this project, chief among them the Matanel Foundation and the Noé family of London. And thanks in advance to all those who will invest their time, hearts, and minds in studying these volumes – to learn, to teach, and to practice.

Rabbi Adin Even-Israel Steinsaltz
Jerusalem 5773

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Acknowledgments

We are indeed privileged to dedicate this edition of the *Koren Talmud Bavli* in honor of the generous support of Leo and Sue Noé of London.

The name Noé is synonymous with philanthropy. The family's charitable endeavors span a vast range of educational projects, welfare institutions, and outreach organizations across the globe, with a particular emphasis on the "nurturing of each individual." Among so many other charitable activities, the Noés have been deeply involved with Kisharon, which provides the British Jewish community with vital support for hundreds of people with learning difficulties and their families; they provide steadfast support of SEED, which stands at the forefront of adult Jewish education in the UK, and Kemach, an organization in Israel that "helps Haredi students sustain themselves in dignity," providing both professional and vocational training for the Haredi community in Israel.

The Noés are not simply donors to institutions. They are partners. Donors think of a sum. Partners think of a cause, becoming rigorously and keenly involved, and giving of their time and energy. We are honored that they have chosen to partner with our two organizations, the Steinsaltz Center and Koren Publishers Jerusalem, enabling us to further and deepen learning among all Jews.

Leo and Sue are the proud parents and grandparents of five children and their families. The next generation has been taught by example that with life's gifts come the responsibilities to be active within and contribute to society – both Jewish and non-Jewish – as is consistent with the noblest of Jewish values.

Rabbi Adin Even-Israel Steinsaltz
Matthew Miller, Publisher
Jerusalem 5773

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Introduction by the Editor-in-Chief

The publication of tractate *Bekhorot* is another noteworthy achievement for the Koren Talmud Bavli project. With this, the fourth tractate of *Seder Kodashim*, the Order of Consecrated Items, we take yet another step toward our goal, the completion of a new and unique translation of the Babylonian Talmud.

Presenting the English-speaking world with a translation that possesses all the merits of the original Hebrew work by Rabbi Steinsaltz, the text provides assistance for the beginner of any age who seeks to obtain the necessary skills to become an adept talmudist. Beginning with *Berakhot* and continuing through *Bekhorot*, the team has brought excellence to every aspect of the daunting task of translating Rabbi Adin Even-Israel Steinsaltz's masterful Hebrew translation of the Talmud into English.

Rabbi Steinsaltz's work is much more than a mere translation. It includes a coherent interpretation of the Mishna and the Gemara, and an expansion of the text that provides an array of intriguing marginal notes. Rendering this masterpiece into English called for talents that include biblical and talmudic scholarship, literary skills, linguistic expertise, editorial acumen, graphic and visual creativity, and most of all, teamwork and diligence. Congratulations to every member of the team are in order, and celebration of our achievement is well deserved.

I'd like to take this opportunity to express our gratitude to the Almighty for giving us the strength to persevere at this sacred task for the past several years. These years have been difficult ones for the Jewish people, and especially for those of us who dwell in Eretz Yisrael. But the difficulties have not diminished our ability to succeed in our goals. For that we thank the Master of the Universe.

Students of tractate *Bekhorot* will be both informed and inspired. They will be informed with regard to the many mitzvot related to the phenomenon of the firstborn. They will be inspired by the many passages which guide our moral and ethical behavior. As always, we consider our efforts successful if the reader comes away from the text a better person, and not just a better-informed person. For it is our contention that Talmud study fosters lifelong ethical development and a profound sensitivity to the needs and concerns of other human beings.

We have now had the opportunity to survey hundreds of responses submitted by our readers. Naturally, these include constructive criticism and reports of errors that are inevitable in such an undertaking. We have systematically preserved such responses so that we can correct them in future editions. Indeed, we have already begun to do so for the initial tractates in our series.

The most exciting result of our survey has been our discovery that "consumers" of Koren Talmud Bavli are a remarkably diverse group. They range from beginners who have never before been exposed to a *blatt gemara*, to accomplished scholars who have completed the study of the entire Talmud more than once. Beginners

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find our work not only a helpful introduction to Talmud study, but an impetus to the further study of rabbinic texts. Experienced scholars report that our work provides them with unexpected insights and fresh perspectives that enhance their appreciation of texts with which they have long been acquainted.

Tractate *Bekhorot* is the thirty-ninth volume of the project. Like the preceding volumes, it includes the entire original text, in the traditional configuration and pagination of the famed Vilna edition of the Talmud. This enables the student to follow the core text with the commentaries of Rashi, *Tosafot*, and the customary marginalia. It also provides a clear English translation in contemporary idiom, faithfully based upon the modern Hebrew edition.

At least equal to the linguistic virtues of this edition are the qualities of its graphic design. Rather than intimidate students by confronting them with a page-size block of text, we have divided the page into smaller thematic units. Thus, readers can focus their attention and absorb each discrete discussion before proceeding to the next unit. The design of each page allows for sufficient white space to ease the visual task of reading. The illustrations, one of the most innovative features of the Hebrew edition, have been substantially enhanced and reproduced in color.

The end result is a literary and artistic masterpiece. This has been achieved through the dedicated work of a large team of translators, headed by Rabbi Joshua Schreier; the unparalleled creative efforts of the gifted staff at Koren; and the inspired and impressive administrative skills of Rabbi Jason Rappoport, managing editor of the Koren Talmud Bavli project.

It is an honor for me to acknowledge the role of Matthew Miller of Koren Publishers Jerusalem in this historic achievement. Without him this work would never have begun. Its success is attributable to his vision and supervision. I owe a great personal debt to him for selecting me as editor-in-chief, and I am continually astounded by his commitment to Jewish learning, the Jewish people, and the Jewish homeland.

The group of individuals who surround Rabbi Steinsaltz and support his work deserve our thanks as well. I have come to appreciate their energy, initiative, and persistence. And I thank the indefatigable Rabbi Menachem Even-Israel, whom I cannot praise highly enough. The quality of his guidance and good counsel is surpassed only by his commitment to the dissemination and perpetuation of his father's precious teachings.

Finally, in humility, awe, and great respect, I acknowledge Rabbi Adin Even-Israel Steinsaltz. I thank him for the inspirational opportunity he has granted me to work with one of the outstanding sages of our time.

Rabbi Tzvi Hersh Weinreb
Jerusalem 5779

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Preface by the Executive Editor

The *Koren Talmud Bavli* is in the midst of its treatment of the fifth order of the Talmud, *Seder Kodashim*, the Order of Consecrated Items, an order that deals primarily with the sublime and the spiritual. As the Rambam wrote in his *Guide of the Perplexed*, it is the spiritual that constitutes the ultimate form of worshipping God.

In the previous order, *Seder Nezikin*, the Order of Damages, the primary focus is on actions and the ramifications of those actions, as they are manifest in the laws of damages, labor relations, transactions, and the like. One's intent is less significant, as, for example, with regard to damages, the Sages stated (*Sanhedrin* 72a): One is liable whether the damage was unintentional or intentional, whether by unavoidable accident, or whether willingly.

In *Kodashim*, the primary focus is on intent. Clearly, there are actions that must be performed; however, the effectiveness of those actions is dictated by the accompanying intent. This is exemplified by the laws governing the sacrifice of animal offerings. There are four sacrificial rites, which constitute the essence of the offering. They are: Slaughter, collection of the blood, conveying the blood to the altar, and sprinkling the blood on the altar. If during the performance of these rites one's intent was to consume the offering after its designated time, the offering is disqualified.

My involvement in the production of the *Koren Talmud Bavli* has been both a privilege and a pleasure. The Steinsaltz Center, headed by Rabbi Menachem Even-Israel and devoted to the dissemination of the wide-ranging, monumental works of Rabbi Adin Even-Israel Steinsaltz, constitutes the Steinsaltz side of this partnership; Koren Publishers Jerusalem, headed by Matthew Miller, constitutes the publishing side of this partnership. The combination of the inspiration, which is the hallmark of the Steinsaltz Center, with the creativity and professionalism for which Koren is renowned and which I experience on a daily basis, has lent the *Koren Talmud Bavli* its outstanding quality in terms of both content and form.

I would be remiss if I failed to mention the contribution of Raphaël Freeman, who guided this project from its inception and is largely responsible for transforming the content of the Steinsaltz Talmud into the aesthetic *Koren Talmud Bavli* that is before you. He was succeeded by Dena Landowne Bailey, who facilitated a seamless transition and continued to ensure that the *Koren Talmud Bavli* lives up to the lofty standards that are the hallmark of Koren Publishers. Beginning with tractate *Menaḥot*, Tomi Mager has assumed responsibility for the layout. She has proven herself a worthy successor to her predecessors in that role.

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I would like to express my appreciation for Rabbi Dr. Tzvi Hersh Weinreb, the editor-in-chief, whose insight and guidance have been invaluable. Rabbi Jason Rappoport, the managing editor, has added professionalism to this project, systematizing the work of the large staff, and it is thanks to him that the project is proceeding with efficiency and excellence. Rabbi Dr. Joshua Amaru, the coordinating editor, oversees the work of the translators and editors, and is largely responsible for ensuring the consistently high quality of their work. The contribution of my friend and colleague, Rabbi Dr. Shalom Z. Berger, the senior content editor, cannot be overstated; his title does not begin to convey the excellent direction he has provided in all aspects of this project.

The staff of copy editors, headed by Aliza Israel, with Ita Olesker as production coordinator, pleasantly but firmly ensures that the finished product conforms to standards and is consistently excellent. The erudite and articulate men and women who serve as translators, editors, and copy editors generate the content that is ultimately the *raison d'être* of the *Koren Talmud Bavli*.

I would also like to express appreciation for the invaluable contribution of the technical staff. Without them, the jobs of the entire staff of translators and editors would be much more difficult. Thanks to Tani Bednarsh, Adena Frazer, Yaakov Shmidman, Shaltiel Shmidman, and Nava Wieder.

Thanks to my former and present fellow occupants of the Koren *beit midrash*: Rabbi David Fuchs, Rabbi Yinon Chen, Efrat Gross, and others. Their mere presence creates an atmosphere conducive to the serious endeavor that we have undertaken and their assistance in all matters, large and small, is appreciated.

At the risk of being repetitious, I would like to thank Rabbi Dr. Berger for introducing me to the world of Steinsaltz. Finally, I would like to thank Rabbi Menachem Even-Israel, with whom it continues to be a pleasure to move forward in this great enterprise.

Rabbi Joshua Schreier
Jerusalem 5778

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Introduction by the Publisher

The Talmud has sustained and inspired Jews for thousands of years. Throughout Jewish history, an elite cadre of scholars has absorbed its learning and passed it on to succeeding generations. The Talmud has been the fundamental text of our people.

Beginning in the 1960s, Rabbi Adin Even-Israel Steinsaltz שליט"א created a revolution in the history of Talmud study. His translation of the Talmud, first into modern Hebrew and then into other languages, as well the practical learning aids he added to the text, have enabled millions of people around the world to access and master the complexity and context of the world of Talmud.

It is thus a privilege to present the *Koren Talmud Bavli*, an English translation of the talmudic text with the brilliant elucidation of Rabbi Steinsaltz. The depth and breadth of his knowledge are unique in our time. His rootedness in the tradition and his reach into the world beyond it are inspirational.

Working with Rabbi Steinsaltz on this remarkable project has been not only an honor, but a great pleasure. Never shy to express an opinion, with wisdom and humor, Rabbi Steinsaltz sparkles in conversation, demonstrating his knowledge (both sacred and worldly), sharing his wide-ranging interests, and, above all, radiating his passion. I am grateful for the unique opportunity to work closely with him, and I wish him many more years of writing and teaching.

Our intentions in publishing this new edition of the Talmud are threefold. First, we seek to fully clarify the talmudic page to the reader – textually, intellectually, and graphically. Second, we seek to utilize today's most sophisticated technologies, both in print and electronic formats, to provide the reader with a comprehensive set of study tools. And third, we seek to help readers advance in their process of Talmud study.

To achieve these goals, the *Koren Talmud Bavli* is unique in a number of ways:

- The classic *tzurat hadaf* of Vilna, used by scholars since the 1800s, has been reset for greater clarity, and opens from the Hebrew "front" of the book. Full *nikkud* has been added to both the talmudic text and Rashi's commentary, allowing for a more fluent reading with the correct pronunciation; the commentaries of *Tosafot* have been punctuated. Upon the advice of many English-speaking teachers of Talmud, we have separated these core pages from the translation, thereby enabling the advanced student to approach the text without the distraction of the translation. This also reduces the number of volumes in the set. At the bottom of each *daf,* there is a reference to the corresponding English pages. In addition, the Vilna edition was read against other manuscripts and older print editions, so that texts which had been removed by non-Jewish censors have been restored to their rightful place.

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- The English translation, which starts on the English "front" of the book, reproduces the *menukad* Talmud text alongside the English translation (in bold) and commentary and explanation (in a lighter font). The Hebrew and Aramaic text is presented in logical paragraphs. This allows for a fluent reading of the text for the non-Hebrew or non-Aramaic reader. It also allows for the Hebrew reader to refer easily to the text alongside. Where the original text features dialogue or poetry, the English text is laid out in a manner appropriate to the genre. Each page refers to the relevant *daf*.
- Critical contextual tools surround the text and translation: personality notes, providing short biographies of the Sages; language notes, explaining foreign terms borrowed from Greek, Latin, Persian, or Arabic; and background notes, giving information essential to the understanding of the text, including history, geography, botany, archaeology, zoology, astronomy, and aspects of daily life in the talmudic era.
- Halakhic summaries provide references to the authoritative legal decisions made over the centuries by the rabbis. They explain the reasons behind each halakhic decision as well as the ruling's close connection to the Talmud and its various interpreters.
- Photographs, drawings, and other illustrations have been added throughout the text – in full color in the Standard and Electronic editions, and in black and white in the Daf Yomi edition – to visually elucidate the text.

This is not an exhaustive list of features of this edition; it merely presents an overview for the English-speaking reader who may not be familiar with the "total approach" to Talmud pioneered by Rabbi Steinsaltz.

Several professionals have helped bring this vast collaborative project to fruition. My many colleagues are noted on the Acknowledgments page, and the leadership of this project has been exceptional.

RABBI MENACHEM EVEN-ISRAEL, DIRECTOR OF THE STEINSALTZ CENTER, was the driving force behind this enterprise. With enthusiasm and energy, he formed the happy alliance with Koren and established close relationships among all involved in the work.

RABBI DR. TZVI HERSH WEINREB שליט"א, EDITOR-IN-CHIEF, brought to this project his profound knowledge of Torah, intellectual literacy of Talmud, and erudition of Western literature. It is to him that the text owes its very high standard, both in form and content, and the logical manner in which the beauty of the Talmud is presented.

RABBI JOSHUA SCHREIER, EXECUTIVE EDITOR, assembled an outstanding group of scholars, translators, editors, and copy editors, whose standards and discipline enabled this project to proceed in a timely and highly professional manner.

RABBI MEIR HANEGBI, EDITOR OF THE HEBREW EDITION OF THE STEINSALTZ TALMUD, lent his invaluable assistance throughout the work process, supervising the reproduction of the Vilna pages.

RAPHAËL FREEMAN created this Talmud's unique typographic design which, true to the Koren approach, is both elegant and user friendly.

It has been an enriching experience for all of us at Koren Publishers Jerusalem to work with the Steinsaltz Center to develop and produce the *Koren Talmud Bavli*. We pray that this publication will be a source of great learning and, ultimately, greater *avodat Hashem* for all Jews.

Matthew Miller, Publisher
Koren Publishers Jerusalem
Jerusalem 5773

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Introduction to **Bekhorot**

Tractate *Bekhorot* deals primarily with the *halakhot* of the various categories of firstborn animals and people. It appears that the tractate was placed immediately following tractate *Ḥullin* due to the similarities between the *halakhot* discussed there, i.e., those relating to ritual slaughter, consumption of animals in general, and gifts to which members of the priesthood are entitled, and the *halakhot* discussed here, i.e., those relating to the male firstborn of a kosher animal. This tractate also discusses the *halakhot* of animal tithe, due to the similarities between these *halakhot* and the *halakhot* of a male firstborn kosher animal.

The Torah commands that three distinct categories of firstborn be consecrated to God: A woman's firstborn son, the male firstborn of a kosher domesticated animal, and a male firstborn donkey. The reason for this is given explicitly in the Torah; during the plague of the firstborn, when God smote all of the firstborn in Egypt, both human and animal, the Jewish firstborn were saved. Therefore, God sanctified human and animal firstborn as His own, and consequently, every Jew is commanded to consecrate them, each type of firstborn in its own manner.

These mitzvot are included both in the category of mitzvot that serve to remind the Jews of the exodus from Egypt, as well as those that obligate one to give the first of all he has to God, like the mitzvot of *teruma* and first fruits. It is due to their being grouped in the latter category that all of the firstborn are given in some form to the priest, who is the messenger of God, and are included in the category of gifts of the priesthood.

A number of similarities exist between the three types of firstborns: All three mitzvot apply specifically to a male firstborn that is the first to emerge from its mother's womb, the sanctity of all of them takes effect automatically from the moment of birth, and all three types of firstborns or the animals redeemed in their stead must be given to a priest. Yet the nature of the sanctity of each is not identical, and is reflected in different ways in the *halakha*.

A firstborn donkey is obviously not sanctified in the classical sense, as it is a non-kosher animal and may not be sacrificed as an offering. In addition, it is not given to the priest; a lamb is given to the priest in its stead, an action referred to as the redemption of the firstborn donkey. Whereas prior to its redemption, some Sages hold that deriving benefit from the donkey is prohibited, and this is the accepted *halakha*, from that point onward deriving benefit from it is permitted, and it is considered the property of its owner with regard to all matters. If the firstborn donkey is not redeemed with a lamb, its neck must be broken. These basic *halakhot* are stated explicitly in the Torah, though certain aspects require additional analysis, such as addressing the questions of whether or not one may redeem a firstborn donkey with

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money instead of a lamb, whether it is preferable to redeem the donkey or whether breaking its neck is acceptable *ab initio*, and what its status is after its neck is broken.

The male firstborn of a kosher animal, such as an ox, lamb, or goat, is imbued at birth with the sanctity of an offering. As opposed to other offerings, which are consecrated by a person, this offering's sanctity is inherent. After the initial stages of its growth, it is given to a priest, who must sacrifice it in the Temple within its first year and eat its meat in Jerusalem. If the firstborn animal develops a blemish and is not suitable for sacrifice as an offering, the priest may slaughter it and eat it anywhere. Nevertheless, the inherent sanctity of the firstborn does not lapse, and it is still prohibited to shear it or perform labor with it, as it is prohibited with regard to any other sacrificial animals. In addition, it cannot be redeemed, in contrast to other sacrificial animals that develop a blemish, and one may not sell its meat in the marketplace like non-sacred meat.

A woman's firstborn son whose parents are both Israelites, as opposed to priests or Levites, is also sanctified at birth. In contrast to the other categories of firstborns, this sanctity produces no sacrificial status or prohibition against deriving benefit from the firstborn. Rather, the effect of this sanctity is that the father must redeem him by giving five silver shekels to a priest. This mitzva of redeeming a firstborn son applies once the baby is thirty days old. Although the mitzva is incumbent upon the father, if the firstborn son is not redeemed by his father, he must redeem himself.

There is another type of firstborn, the firstborn son of the father, known as *reshit ono*. If this child is not his mother's firstborn son as well, he does not possess the sanctity of a firstborn, but he does receive a double portion of his father's inheritance. By contrast, an individual who is a woman's firstborn son but not the firstborn of the father is subject to the mitzva of redemption but does not receive a double inheritance. This tractate deals with both types of firstborns.

As previously mentioned, all three of the primary types of firstborns are males that are defined as the first of the womb of their mother. Although this definition appears to be clear, a number of ambiguities exist: Is an offspring born via caesarean section also considered a firstborn, and if not, what is the status of the subsequent offspring? What is the status of an offspring born following a non-viable offspring? Is any offspring that died deemed a non-viable offspring, or only one that had some sort of defect?

Another issue relevant to animal firstborns is that of ownership. The Torah refers to a firstborn as being: "In Israel" (Numbers 3:13). The Sages derive from here that a firstborn animal must belong to a Jew in order to be subject to firstborn status. Here too, questions arise, such as: What is the *halakha* if the mother animal is owned by a Jew but the offspring is sold to a gentile prior to its birth, or vice versa, i.e., the mother belongs to a gentile and the offspring is sold to a Jew prior to its birth? In addition, is a mother or offspring that is only partially owned by a Jew subject to firstborn status? With regard to a woman's firstborn son, the verse cited above also raises a dilemma with regard to the children of a convert: Is the firstborn subject to firstborn status if he was born prior to the conversion of his mother? By contrast, is the second son, who is the first Jewish son, subject to firstborn status?

Another dilemma relates to the species that are subject to firstborn status. With regard to the firstborn of kosher animals, only an offspring which is the same species as the mother is subject to firstborn status. The Gemara asks: Is a hybrid of a sheep and a goat, or of a domesticated animal and an undomesticated animal, considered to

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be the same species as the mother or not? In addition, what is the status of an animal that is born with an unusual appearance, such as the offspring of a ewe that looks like a goat, or the offspring of a cow, which is a kosher animal, that looks like a donkey, which is a non-kosher animal? Even with regard to humans, there are some non-viable offspring whose lack of development or extremely unusual appearance gives rise to the possibility that perhaps the child is not considered a human offspring at all, in which case firstborn status would apply to the subsequent offspring. The discussion of these issues also prompts the Sages to discuss whether an animal that looks like a non-kosher animal but was born to a kosher animal is considered kosher, which leads to a discussion of several related issues, such as the status of foods that come from a living animal that is either kosher or non-kosher.

There are also discussions in this tractate with regard to situations of uncertainty where it is not possible to identify the mother of the firstborn or the firstborn itself. In these cases, a financial component exists: May the priest claim that a certain animal belongs to him as a firstborn when it is uncertain whether it actually is a firstborn? In this context, the principle that the burden of proof rests upon the claimant applies, and consequently the priest may not claim the animal as his own unless he can prove that it is a firstborn. Nevertheless, with regard to the ritual ramifications of firstborn status the owner must be stringent in cases of uncertainty. Therefore, he still designates a lamb for his donkey whose status is uncertain, and he treats his kosher animal that has uncertain firstborn status with sanctity, though he is not required to give any of them to the priest.

A large portion of tractate *Bekhorot* discusses the *halakhot* of a firstborn kosher animal that has a blemish, as the Torah permits the slaughter of such an animal outside of the Temple. Determining when a firstborn kosher animal has a blemish is highly significant halakhically, as slaughtering sacrificial animals outside of the Temple is subject to the punishment of excision from the World-to-Come [*karet*]. In addition, identifying a blemish requires specific expertise with regard to animals and their blemishes. Therefore, not every individual can deem a firstborn kosher animal permitted for slaughter outside the Temple; only an expert who has received ordination in this area can do so. If the animal was deemed permitted for slaughter outside the Temple without a ruling by an expert, the Sages prohibited deriving benefit from the carcass.

Determining that a firstborn is blemished also has financial significance for the priest, as he must bring an unblemished firstborn animal to Jerusalem to be sacrificed and consumed there, while it is permitted to slaughter and eat a blemished animal in any location. Following the destruction of the Temple, the priest was required to raise the firstborn animal that he received, and it was no longer permitted for him to use it for any labor until it developed a blemish, and even then, he was not permitted to sell the animal in the marketplace like an ordinary animal. These restrictions created various difficulties with regard to the credibility of the priests: They were often suspected of intentionally causing blemishes to the firstborns, which is prohibited by Torah law, and they were also suspected of selling the meat of firstborns as normal meat.

In order to penalize the transgressors and discourage them from continuing to intentionally cause the animals to become blemished, the Sages stated that in the case of a firstborn animal to which a priest intentionally caused a blemish, or where the blemish was caused with his knowledge, it is prohibited for him to derive benefit from that animal. In addition, the Sages ruled that a priest is not deemed credible when claiming that the firstborn in his possession developed a blemish naturally.

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Likewise, an expert may not receive payment for checking firstborn animals for blemishes unless he receives a set standard fee irrespective of his ruling.

The tractate then discusses the limits of the prohibition against receiving payment for judging and testifying in general, as well as the prohibition against purchasing potentially forbidden items from suspect individuals: In which cases is one who is suspected with regard to one area of *halakha* also suspected with regard to a different area? How can a suspect individual regain credibility, and how does one lose credibility? This portion of the tractate includes a similar discussion, based on *mishnayot* in tractate *Demai*, with regard to the distinction between an *am ha'aretz*, i.e., one who is suspected with regard to matters of ritual purity, *teruma*, and tithes, and a *ḥaver*, i.e., one who is devoted to the meticulous observance of mitzvot, especially the *halakhot* of ritual purity, *teruma*, and tithes, who is generally deemed credible.

This tractate also discusses at length the *halakhot* of the blemishes that disqualify a firstborn animal from being sacrificed as an offering and render it permitted for slaughter outside of the Temple. Although specific blemishes that disqualify an animal from being sacrificed as an offering are mentioned in the Torah, these blemishes must be identified on the body of the animal, which is sometimes difficult to do. Moreover, the Gemara clarifies what is included in each type of blemish. In addition to the blemishes mentioned explicitly, other blemishes are included due to the principle that any permanent blemish that is easily recognizable to everyone and prevents the affected limb from being used for its regular function is defined as a blemish.

Another principle that is considered with regard to blemishes is the distinction between permanent and temporary blemishes. If the blemish is permanent, then, as mentioned, the firstborn animal may be slaughtered outside the Temple. Other sacrificial offerings with permanent blemishes may be redeemed from their sacrificial status. But if the blemish is temporary, the animal may not be sacrificed as an offering or slaughtered while the blemish exists; nevertheless, immediately after the blemish is healed, the animal is again fit to be sacrificed as an offering. This tractate discusses which blemishes are defined as permanent and which are defined as temporary, as well as how to distinguish between them. In addition, the tractate discusses certain blemishes that by Torah law do not disqualify the animal as an offering or render it permitted for slaughter outside the Temple, but that nevertheless, by rabbinic law, disqualify the animal from being sacrificed on the altar, since the Sages felt that it is not suitable to sacrifice such an animal.

Following the discussion of the blemishes that disqualify an animal as an offering, the tractate discusses human blemishes. The Torah explicitly states that a priest who has a blemish is disqualified from performing the Temple service. Some blemishes disqualify both priests and animals, while some disqualify only one or the other, due to the different body structure of humans and animals. In addition to these blemishes, there is a lengthy list of unusual physical features that disqualify priests from performing the Temple service due to their appearance.

The tractate concludes with a discussion of the mitzva of animal tithe. The Torah states that an Israelite must count his flock, and every tenth animal is sanctified, regardless of whether or not it is blemished. If it is not blemished, the owner must sacrifice it as an offering. Its blood and sacrificial portions are burned on the altar, and the owner eats the meat in Jerusalem. This mitzva is similar in a number of respects to that of the male firstborn of a kosher animal, which is one of the primary themes

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of this tractate. With regard to the manner in which they are sacrificed, these two offerings share several details: In neither case does the owner place his hands on the head of the offering, the blood of both offerings is poured once on the base of the altar, and both can be eaten for two days and the night between them, anywhere in Jerusalem, although a firstborn offering is eaten by the priest, while the animal tithe offering is eaten by the owner.

Aside from these similarities, there are also other important aspects of these two offerings that distinguish them from other sacrificial animals: A firstborn animal and animal tithe are not consecrated at the owner's initiative, as a firstborn animal is automatically consecrated at birth, and animal tithe is determined based upon which animal is the tenth one to emerge from the pen. In contrast to other sacrificial animals, both of these animals are sanctified even if they are blemished and disqualified from being sacrificed as offerings. Moreover, if they develop a blemish, they cannot be redeemed, though they are permitted for consumption without being redeemed. This principle, that the sanctity of these animals is independent of whether a person consecrated them and independent of their suitability for being brought as an offering, is the reason that these mitzvot apply even after the destruction of the Temple. Although a firstborn animal and animal tithe are sanctified as offerings, it is apparent that their primary purpose is not necessarily their sacrifice, but rather the consecration itself, i.e., the giving of these animals to God.

Tractate *Bekhorot* contains only a small amount of *aggada,* most of which is found in Chapter One. The tractate contains nine chapters in total, each of which deals primarily with one subject.

Chapter One discusses the *halakhot* of a firstborn donkey, such as which donkeys are subject to having their offspring counted as a firstborn, and which are not.

Chapter Two discusses similar issues with regard to the male firstborn of a kosher animal.

Chapter Three primarily discusses the *halakha* in situations where a kosher animal gives birth but it is not known with certainty whether or not the offspring is a firstborn, as well as the prohibition against shearing a firstborn animal.

Chapter Four discusses the transfer of a firstborn kosher animal from its Israelite owner to the priest, as well as the ways in which it is permitted for the priest to slaughter the animal when a blemish develops. In this chapter, the *halakhot* of those individuals who are suspected of violating a prohibition are also discussed.

Chapter Five is a continuation of Chapter Four, and addresses situations where there is suspicion or knowledge that a blemish was intentionally caused to a firstborn animal, as well as situations where a firstborn animal was slaughtered without supervision by an expert in the *halakhot* of blemishes.

Chapter Six lists the various blemishes that disqualify an animal from being sacrificed upon the altar and permit a firstborn animal to be slaughtered outside the Temple.

Chapter Seven discusses blemishes found in humans that disqualify a priest from performing the Temple service.

Chapter Eight discusses and defines the two types of human firstborns: A firstborn with regard to sanctity, which is dependent upon being the first to emerge from its mother's womb, and a firstborn with regard to inheritance.

Finally, Chapter Nine surveys all of the *halakhot* related to the mitzva of animal tithe.

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Introduction to **Perek I**

And every firstborn donkey you shall redeem with a lamb, and if you do not redeem it, then you shall break its neck, and every human firstborn of your sons you shall redeem.

(Exodus 13:13)

And the firstborn of a donkey you shall redeem with a lamb; and if you do not redeem it, then you shall break its neck. All the firstborn of your sons you shall redeem, and none shall appear before Me empty.

(Exodus 34:20)

And the Lord spoke to Moses, saying: And I, behold, I have taken the Levites from among the children of Israel instead of every firstborn that opens the womb among the children of Israel, and the Levites shall be Mine; for all the firstborn are Mine: On the day that I smote all the firstborn in the land of Egypt I sanctified for Me all the firstborn in Israel, both man and beast, Mine they shall be: I am the Lord.

(Numbers 3:11–13)

Take the Levites instead of all the firstborn among the children of Israel, and the animals of the Levites instead of their animals; and the Levites shall be Mine, even the Lord's. And as for the redemption of the 273 of the firstborn of the children of Israel, that are over and above the number of the Levites, you shall take five shekels apiece by the poll; by the shekel of the Sanctuary you shall take them. The shekel is twenty gera.

(Numbers 3:45–47)

This chapter primarily examines the *halakhot* of a firstborn donkey. While it may have been more appropriate to begin the tractate with the *halakhot* of the male firstborn of a kosher animal, which has inherent sanctity and is sacrificed upon the altar, the topic of a firstborn donkey is nevertheless discussed first, since it involves fewer *halakhot*. The tractate then moves into a lengthier analysis of the numerous *halakhot* of the male firstborn of a kosher animal.

There is a positive mitzva to redeem a male donkey that is the firstborn of a female donkey with a lamb that is given to the priest. If one does not redeem it, there is a mitzva to break the neck of the donkey. This mitzva raises a number of fundamental and practical questions with regard to each of its respective components.

The expressions "in Israel" and "among the children of Israel" are repeated a few times in the relevant verses, which raises the question of whether the donkey must belong exclusively to a Jew, or whether the mitzva applies if it is owned in partnership by a Jew and a gentile. In addition, the Gemara discusses the question of whether this expression exclude non-Israelites, i.e., priests and Levites, from the mitzva.

The question may be raised whether any firstborn animal born to a female donkey is included in the mitzva, or only an offspring that itself qualifies as a donkey, in which case an animal that is born with an unusual appearance and does not look like a donkey would be excluded. Likewise, what is the definition of a lamb with regard to using one to redeem the donkey? With regard to the lamb, one may ask a number of other questions: Must one give a lamb, or may one instead give any item that has the same monetary value as the donkey? Is the owner of the donkey obligated to redeem the donkey with a lamb and give the lamb to a priest, or may he instead give the firstborn donkey itself to the priest?

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Another uncertainty with regard to this mitzva arises because animals, including donkeys, do not always give birth in the presence of humans: Is a male newborn donkey found in a stall assumed to be the offspring of a female that had not given birth previously? Likewise, what is the *halakha* if a donkey gives birth to more than one offspring, and it is uncertain which one is the firstborn? Is a donkey whose firstborn status is uncertain subject to the mitzva of redemption or not?

Additional questions discussed in this chapter relate to the redemption itself. From what point must one redeem a firstborn donkey? Must it be done immediately, or only after thirty days, as with the mitzva of redeeming a human firstborn? Has the owner already fulfilled the mitzva from the time that he designates the lamb, or is it fulfilled only when the lamb reaches the priest? In addition, does the redemption transform the ritual status of the firstborn donkey in any way? Was it prohibited to derive benefit from it prior to the redemption and then permitted afterward, or does the redemption merely involve the fulfillment of the mitzva of giving it to the priest without affecting the status of the donkey? What is the status of the lamb? Does it possess any sort of sanctity?

The Torah mitzva in the verse: "And if you do not redeem it, then you shall break its neck" also raises some questions: Is the act of breaking the neck itself a mitzva, i.e., can one choose whether to redeem the firstborn donkey or to break its neck, or is the requirement of breaking the neck a penalty imposed by the Torah upon an individual who does not redeem the firstborn donkey?

Other questions with regard to the status of an offspring that is not similar in appearance to its mother are explored, such as if a kosher animal gives birth to an offspring that appears like a non-kosher animal. The discussion of that issue leads to an analysis of the status of items that emerge from the body of a kosher or non-kosher animal.

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מתני׳ הַלּוֹקֵחַ עוּבַּר חֲמוֹרוֹ שֶׁל נָכְרִי, וְהַמּוֹכֵר לוֹ, אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי, הַמִּשְׁתַּתֵּף לוֹ, וְהַמְקַבֵּל הֵימֶנּוּ, וְהַנּוֹתֵן לוֹ בְּקַבָּלָה – פָּטוּר מִן הַבְּכוֹרָה, שֶׁנֶּאֱמַר: ״בְּיִשְׂרָאֵל״ – אֲבָל לֹא בָּאֲחֵרִים.

MISHNA With regard to **one who purchases the fetus of a donkey that belongs to a gentile,**[H] **and one who sells**[N] the fetus of his donkey **to** a gentile **although he is not permitted**[N] to sell a large animal to a gentile, and **one who enters into a partnership with** a gentile in ownership of a donkey or its fetus, **and one who receives**[H] a donkey **from** a gentile[N] in order to care for it in exchange for partnership in its offspring, **and one who gives** his donkey **to** a gentile **in receivership,** in all of these cases the donkeys are **exempt from the** obligations of **firstborn status,** i.e., they do not have firstborn status and are not redeemed, **as it is stated:** "I sanctified to Me all the firstborn **in Israel,** both man and animal" (Numbers 3:13), indicating that the mitzva is incumbent upon the Jewish people, **but not upon others.** If the firstborn belongs even partially to a gentile, it does not have firstborn status.

גמ׳ כָּל הָנֵי לָמָּה לִי?

GEMARA The Gemara asks: **Why do I** need **all these** examples in the mishna to demonstrate the principle that a firstborn donkey must belong exclusively to a Jew for the obligations of firstborn status to apply?

צְרִיכִי, דְּאִי תְּנָא לוֹקֵחַ, הָוֶה אָמִינָא: מִשּׁוּם דְּקָא מַיְיתֵי לָהּ לִקְדוּשָּׁה, אֲבָל מוֹכֵר דְּקָא מַפְקַע לָהּ מִקְּדוּשָּׁה – אֵימָא לֵיקְנְסֵיהּ, קָא מַשְׁמַע לָן.

The Gemara explains: All of these examples **are necessary. As, had** the *tanna* **taught** that a donkey is exempt from the obligations of firstborn status only in the case where a Jew **purchases** a fetus from a gentile, **I would say** that this is **because** the Jew **brings it to** a state of **sanctity** in that it will not be worked on Shabbat. **But** in the case where a Jew **sells** the fetus of his donkey to a gentile, **where he abrogates** its state of **sanctity,** I would **say** that the Sages **should penalize him** [*likneseih*][L] for his actions by rendering the fetus subject to the obligations of firstborn status. Therefore, the mishna **teaches us** that it is exempt from these obligations.

וְהַמִּשְׁתַּתֵּף לוֹ לָמָּה לִי? לְאַפּוֹקֵי מִדְּרַבִּי יְהוּדָה, דְּאָמַר: שׁוּתָּפוּת גּוֹי חַייֶבֶת בִּבְכוֹרָה, קָמַשְׁמַע לָן דִּפְטוּרָה מִן הַבְּכוֹרָה.

And why do I need the mishna to state the case of **one who enters into a partnership with** a gentile? The case is necessary **to exclude** the opinion **of Rabbi Yehuda, who says:** An animal owned in **partnership** with **a gentile is obligated,** i.e., subject to accounting its offspring **a firstborn.** Therefore, the mishna **teaches us that** it **is exempt from** its offspring being counted **a firstborn.**

וְהַמְקַבֵּל לָמָּה לִי? מִשּׁוּם דְּקָא בָּעֵי לְמֵיתְנֵי וְהַנּוֹתֵן לוֹ בְּקַבָּלָה.

And why do I need the mishna to state that the fetus does not have firstborn status in the case of **one who receives** a donkey from a gentile in exchange for partnership in its offspring? This *halakha* is already included in the previous one. The Gemara answers: It is **because** the *tanna* **wants to teach** in the parallel case of: **And one who gives** his donkey **to** a gentile **in receivership,** that its offspring does not have firstborn status.

HALAKHA

One who purchases the fetus of a donkey that belongs to a gentile – הַלּוֹקֵחַ עוּבַּר חֲמוֹרוֹ שֶׁל נָכְרִי: If one purchases the fetus of a donkey owned by a gentile or sells a fetus of his own donkey to a gentile, although he is not permitted to do so in the latter case, the fetus does not have firstborn status, and he is not penalized for violating the *halakha*. This ruling is in accordance with that of the mishna (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:15).

One who enters into a partnership with a gentile and one who receives, etc. – הַמִּשְׁתַּתֵּף לוֹ וְהַמְקַבֵּל וכו׳: A partnership in a firstborn animal with a gentile exempts the Jew from the obligations of firstborn status. Therefore, if a gentile owned even one-thousandth of a female or its fetus, the fetus does not have firstborn status. It is forbidden to engage in such a partnership with the gentile by having him acquire part of a fetus, as this abrogates the sanctity of the animal. Therefore, in the case of one who receives an animal from a gentile to care for and both the Jew and gentile receive a portion of the offspring, or if a gentile received an animal from a Jew in a similar manner, the fetus does not have firstborn status (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:15; *Shulḥan Arukh*, *Yoreh De'a* 320:3, 321:20).

LANGUAGE

Penalty [*kenas*] – קְנָס: This word appears frequently in talmudic sources as both a noun and a verb. It comes from the Latin word census, which means an assessment. It was then adopted into a late Greek dialect in the form of **κησος**, *kēnsos*, which refers to paying taxes. From there it spread to Hebrew and Aramaic, where it was used in the sense of a penalty or fine.

NOTES

One who purchases the fetus of a donkey that belongs to a gentile and one who sells, etc. – הַלּוֹקֵחַ עוּבַּר חֲמוֹרוֹ שֶׁל נָכְרִי וְהַמּוֹכֵר וכו׳: The reason that there is no firstborn status here is that this status does not take effect until the fetus emerges from the womb, as is evident from the Torah's formulation: "The opening of the womb" (see, e.g., Exodus 13:2). Consequently, if the mother or fetus belongs to a gentile at that time, the fetus does not have firstborn status (see 3a). Therefore, one who purchases a fetus from a gentile is exempt, since the mother belongs to a gentile at that time. Likewise, one who sells a fetus to a gentile is exempt, because the animal belonged to the gentile before it was born (see *Tosafot*).

Although he is not permitted – אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי: According to *Tosafot*, the reason for this prohibition is that, as the Gemara says, he abrogates the sanctity of the firstborn from the fetus, if it is a male. This is evident as well from the Gemara's comment on 3b that Rav Mari was punished for selling a portion of the rights of a fetus to a gentile because he abrogated the firstborn's inherent sanctity (see also Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:15). By contrast, Rashi explains that the reason for the prohibition is due to the ruling of the mishna (*Avoda Zara* 14b) that one may not sell large livestock to a gentile due to concern that the animal will perform forbidden labor on Shabbat, and a Jew is responsible to ensure that his animal does not work on Shabbat.

And one who receives a donkey from a gentile – וְהַמְקַבֵּל הֵימֶנּוּ: This means that a Jew cares for or safeguards a gentile's animal as a contractor who receives a portion of the offspring. The reason for the exemption from firstborn status here is that the animal itself belongs to the gentile, and the Jew is viewed as having purchased a fetus from him. The same *halakha* would apply in the case of one who gives an animal to a gentile in receivership. Although the mother belongs to the Jew, they are partners in owning the firstborn.

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וְהַנּוֹתֵן לוֹ בְּקַבָּלָה לָמָּה לִי? אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וְעִיקַּר בְּהֵמָה דְּיִשְׂרָאֵל הִיא – לֵיקְנְסֵיהּ, דִּלְמָא אָתֵי לְאֵיחְלוּפֵי בִּבְהֵמָה אַחֲרִיתִי, קָמַשְׁמַע לָן.

And why do I need the case of **one who gives** his donkey **to** a gentile **in receivership** to be stated? It **was necessary,** because it might **enter your mind to say** that **since the primary animal belongs to the Jew,** the Sages **should penalize him** by treating the offspring as a firstborn and requiring it to be redeemed, **lest** this case **be confused with another** case of an **animal** that the Jew puts in the care of a gentile where the gentile does not own rights to the offspring, and the offspring is counted a firstborn. Therefore, the mishna **teaches us** that he is not penalized.

תְּנַן הָתָם: רַבִּי יְהוּדָה מַתִּיר בִּשְׁבוּרָה, בֶּן בְּתֵירָא מַתִּיר בְּסוּס.

§ The Gemara cites a discussion where the mishna is used as a proof: **We learned** in a mishna **elsewhere** (*Avoda Zara* 14b) with regard to the prohibition against selling large livestock to a gentile due to concern that it will be worked on Shabbat: **Rabbi Yehuda deems** the sale **of a damaged** animal **permitted** because it is incapable of performing labor, **and ben Beteira deems** the sale **of a horse**[H] for riding **permitted,** because riding a horse on Shabbat is not prohibited by Torah law.

אִיבַּעְיָא לְהוּ: עוּבָּר מַה לִּי אָמַר רַבִּי יְהוּדָה? טַעֲמָא דְּרַבִּי יְהוּדָה הָתָם דְּשָׁרֵי – מְשׁוּם דְּשִׁבּוּרָה; עוּבָּר נַמִּי שָׁבוּר הוּא. אוֹ דִלְמָא, שִׁבּוּרָה – לָאו הַיְינוּ אוֹרְחֵיהּ, אֲבָל עוּבָּר, כֵּיוָן דְּהַיְינוּ אוֹרְחֵיהּ – לָאו שָׁבוּר הוּא?

A dilemma was raised before the Sages: With regard to **a fetus, what** would **Rabbi Yehuda say to me** about selling it to a gentile? Is the **reason that Rabbi Yehuda deems** selling the animal **permitted there because** it is **damaged** and it cannot work, **and a fetus is also damaged** in the sense that it cannot work? **Or, perhaps** it is permitted to sell **a damaged** animal because **that is not its natural** state; it is defective and is therefore not included in the prohibition against selling large livestock. **But** with regard to **a fetus, since that is its natural** state, and it will become capable of working after growing up, perhaps it **is not** considered **damaged,** as it is not defective.

תָּא שְׁמַע: וְהַמּוֹכֵר לוֹ אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי, וְלָא פָּלֵיג רַבִּי יְהוּדָה.

The Gemara suggests: **Come** and **hear** a resolution to the dilemma from the mishna: **And one who sells** the fetus of his donkey **to** a gentile, his donkey is exempt from the obligations of firstborn status, **although** the owner **is not permitted** to do so. **And Rabbi Yehuda does not disagree** and claim that he may sell it. Apparently, Rabbi Yehuda agrees that it is prohibited to sell the fetus of one's animal to a gentile.

וְלִיטַּעֲמֵיךְ, הַמִּשְׁתַּתֵּף לוֹ וְהַמְקַבֵּל מִמֶּנּוּ וְהַנּוֹתֵן לוֹ בְּקַבָּלָה, דְּלָא קָתָנֵי – הָכִי נַמִּי דְּלָא פָּלֵיג?

The Gemara rejects the resolution: **And according to your reasoning,** concerning the other cases in the mishna, namely, **one who enters into a partnership with** a gentile, **and one who receives** a donkey **from** a gentile in exchange for partnership in its offspring, **and one who gives** his donkey **to** a gentile **in receivership,** with regard to **which** the mishna **does not teach** that Rabbi Yehuda disagrees, **so too** does this indicate **that he does not disagree** with the ruling in the mishna in these cases? That is impossible, as Rabbi Yehuda holds that an animal subject to a partnership between a Jew and gentile is subject to accounting its offspring a firstborn, as is evident from a *baraita* that will soon be cited.

אֶלָּא פָּלֵיג וְלָא קָתָנֵי, הָכָא נַמִּי – פָּלֵיג וְלָא קָתָנֵי.

Rather, clearly Rabbi Yehuda **does disagree, but** the mishna **does not teach** his opinion. **Here too,** with regard to selling the fetus, **he disagrees, but** the mishna **does not teach** his opinion.

HALAKHA

Of a damaged animal…of a horse – בְּשִׁבּוּרָה…בְּסוּס: The Sages prohibit lending or leasing one's large livestock to a gentile, lest he make it work on Shabbat, which would cause the Jew to violate the mitzva to let one's animals rest on Shabbat. The Sages also decreed that it is prohibited to sell damaged animals to gentiles, lest one come to lend or lease his undamaged animals to them. It is permitted to sell a horse to a gentile, as it is not used for transporting burdens but only for riding, which is not prohibited on Shabbat by Torah law. This *halakha* is in accordance with the opinion of ben Beteira. Nowadays, the custom is to allow the sale of large animals to gentiles (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 20:3–4; *Shulḥan Arukh*, *Yoreh De'a* 151:4; see also *Oraḥ Ḥayyim* 246:3).

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תָּא שְׁמַע, רַבִּי יְהוּדָה אוֹמֵר: הַמְקַבֵּל בְּהֵמָה מִן הַגּוֹי, וְיָלְדָה – מַעֲלִין אוֹתוֹ בְּשׁוֹוִיו, וְנוֹתֵן חֲצִי דָּמָיו לַכֹּהֵן; וְהַנּוֹתֵן לוֹ בְּקַבָּלָה, אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי – קוֹנְסִים אוֹתוֹ עַד עֲשָׂרָה בְּדָמָיו, וְנוֹתֵן כָּל דָּמָיו לַכֹּהֵן.

The Gemara suggests: **Come** and **hear** a resolution from a *baraita*: **Rabbi Yehuda says** that in the case of **one who receives an animal from a gentile** in order to care for it and receives some of the offspring in exchange for his work, **and it gave birth** to a firstborn, **they assess its value, and** the Jew **gives half of its value to the priest** to redeem his portion, which is sanctified by the firstborn status. **And** in the case of **one who gives** the gentile an animal **in receivership even though he is not permitted** to do so, the Sages **penalize him** by requiring that he purchase the gentile's portion of the animal for **up to ten** times **its value, and he gives all of its value to the priest.**[N]

NOTES

And he gives all of its value to the priest – וְנוֹתֵן כָּל דָּמָיו לַכֹּהֵן: It is clear from the Gemara's formulation here that he pays the entire value to the priest, not half of its value. It would seem from the straightforward understanding of the Gemara that this is an element of the penalty imposed upon him for giving the animal to a gentile in receivership. Rabbeinu Gershom Meor HaGola on 2b indicates that in this case, the mother belongs to the Jew, and therefore the priest should in fact receive the entire fetus, not just half of it.

Perek **I**
Daf **2** Amud **b**

מַאי לָאו אַעוּבָּר? לָא, אַבְּהֵמָה.

What, is it not referring **to the fetus** when the *baraita* states that he is not permitted to sell it? The Gemara responds: **No,** it is referring **to the animal**[N] itself that he may not sell to the gentile, and that is why he is penalized.

וְהָא "דָּמָיו" קָתָנֵי? תְּנֵי: "דָּמֶיהָ". וְהָא "נוֹתֵן כָּל דָּמָיו לַכֹּהֵן" קָתָנֵי, וְאִי בְּהֵמָה – כֹּהֵן מַאי עֲבִידְתֵּיהּ? הָכָא בְּמַאי עָסְקִינַן – כְּגוֹן דְּיָהֵיב לֵיהּ בְּהֵמָה מְעֻבַּרְתָּא לְפִטּוּמָהּ, דְּמִיגּוֹ דְּקָנְסִינַן לֵיהּ אַבְּהֵמָה, קָנְסִינַן לֵיהּ אַעוּבָּר.

The Gemara asks: **But doesn't** the *baraita* **teach:** The Sages penalize him up to ten times **its value** [***damav***], in masculine form, indicating that it is referring to the fetus and not the mother? The Gemara responds: **Teach** the following wording in the *baraita*: The Sages penalize him up to ten times **its value** [***dameha***], in feminine form. The Gemara asks: **But doesn't it teach: He gives all of its value to the priest? And if** it is referring to **the animal** and not the firstborn, **what is the relevance of** the priest? The Gemara answers: **Here we are dealing with** a case **where** the Jew **gave** the gentile **a pregnant animal to fatten it** in order to divide the profits as well as the offspring. **Since we penalize him for** selling **the animal** in a prohibited manner, **we penalize him with regard to the fetus** as well.

אָמַר רַב אַשִׁי, תָּא שְׁמַע: רַבִּי יְהוּדָה מַתִּיר בִּשְׁבוּרָה, מִפְּנֵי שֶׁאֵינָהּ יְכוֹלָה לְהִתְרַפְּאוֹת. הָא יְכוֹלָה לְהִתְרַפְּאוֹת – אָסַר, וְהָא עוּבָּר נַמִי כֵּיכוֹל לְהִתְרַפְּאוֹת דָּמֵי! שְׁמַע מִינָּהּ.

Rav Ashi says: Come and **hear** a resolution from a *baraita*: **Rabbi Yehuda deems** the sale to a gentile of **a damaged** animal **permitted, because it is incapable of being cured.** This statement indicates that if it is **capable of being cured,** Rabbi Yehuda **deems** its sale **prohibited. And a fetus** is **also similar to** one who is **able to be cured,** as it ultimately will be capable of working. **Learn from it** that Rabbi Yehuda deems the sale of a fetus to a gentile prohibited.

וְאִיבָּא דְּמַתְנִי לָהּ אַמַּתְנִיתִין: וְהַמּוֹכֵר לוֹ, אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי. לֵימָא מַתְנִיתִין דְּלָא כְּרַבִּי יְהוּדָה, דְּתָנֵן: רַבִּי יְהוּדָה מַתִּיר בִּשְׁבוּרָה!

And there are those who teach this discussion as referring **to** the statement in **the mishna:** With regard to **one who sells** the fetus of his donkey **to** a gentile, **although he is not permitted** to sell a large animal to a gentile, it is exempt from the obligations of firstborn status. The discussion then proceeded as follows: **Let us say** that **the mishna is not in accordance with** the opinion of **Rabbi Yehuda, as we learned** in a mishna (*Avoda Zara* 14b): **Rabbi Yehuda deems** the sale **of a damaged** animal **permitted** because it is incapable of performing labor. The *halakha* is presumably the same with regard to a fetus, which is also not capable of performing labor.

אֲפִילּוּ תֵּימָא רַבִּי יְהוּדָה, שְׁבוּרָה – לָאו הַיְינוּ אוֹרְחֵיהּ, עוּבָּר – הַיְינוּ אוֹרְחֵיהּ.

The Gemara responds: **You** may **even say** that it is in accordance with the opinion of **Rabbi Yehuda,** as it is permitted to sell **a damaged** animal because **that is not its natural** state; it is defective and is therefore not included in the prohibition against selling large livestock. But with regard to **a fetus, since it is** in **its natural** state, and will become capable of working after growing up, perhaps it is not considered damaged, as it is not defective.

NOTES

No, it is referring to the animal – לָא אַבְּהֵמָה: One explanation of this answer, cited in *Tosafot*, is that the Jew gave the gentile an animal that was not yet pregnant, with the intention that the gentile would receive a portion of the future offspring, as the Gemara later (3a) interprets this *baraita*. This transaction, then, would be forbidden according to Rabbi Yehuda, as the Gemara will discuss later on this *amud*. As evident from the conclusion of *Tosafot*, there is another explanation of the Gemara's answer: The *baraita* refers to a case where he gave the mother animal to the gentile in order to fatten her. If so, the Gemara's point is that giving the animal for this purpose in receivership is forbidden because the animal will not rest on Shabbat while in the possession of the gentile (see *Shita Mekubbetzet*).

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NOTES

A Jew who sold an animal with regard to rights to its fetuses, what is the *halakha* – מָכַר בְּהֵמָה לְעוּבְּרֶיהָ מַאי: The dilemma refers to a situation where the animal is not yet pregnant, but one sells the rights to the future fetuses. Therefore, unlike the Gemara's inquiry on 2a whether Rabbi Yehuda allows selling the actual fetuses, there is no reason to prohibit the sale due to the fetuses (Rashi). In addition, the concern of the animal being removed from the sanctity of resting on Shabbat is also not relevant here, as the animal belongs to the Jew, and it is therefore forbidden for the gentile to work it at all. Rather, the reason for the dilemma is that perhaps the sale should be forbidden due to concern that others may confuse this case with that of a complete sale of the animal to a gentile and conclude that such a sale is also permitted.

תָּא שְׁמַע, רַבִּי יְהוּדָה אוֹמֵר: הַמְקַבֵּל בְּהֵמָה מִן הַגּוֹי וְיָלְדָה – מַעֲלִין אוֹתוֹ בְּשָׁוְיוֹ, וְנוֹתֵן חֲצִי דָּמָיו לַכֹּהֵן. וְהַנּוֹתַן לוֹ בְּקַבָּלָה, אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי – קוֹנְסִין אוֹתוֹ עַד עֲשָׂרָה בְּדָמָיו, וְנוֹתֵן כָּל דָּמָיו לַכֹּהֵן. מַאי לָאו אַעוּבָּר? לָא, אַבְּהֵמָה.

The Gemara suggests: **Come** and **hear** another proof from a *baraita*: **Rabbi Yehuda says** that in the case of **one who receives an animal from a gentile** to care for and receives a portion of the offspring in exchange for his work, **and it gave birth** to a firstborn, **they assess its value, and** the Jew **gives half of its value to the priest** to redeem his portion, which is sanctified by the firstborn status. **And** in the case of **one who gives** the gentile an animal **in receivership even though he is not permitted** to do so, the Sages **penalize him** by requiring that he purchase the gentile's portion of the animal for **up to ten** times **its value, and he gives all of its value to the priest. What, is it not** referring **to the fetus** when the *baraita* states that he is not permitted to sell it? The Gemara responds: **No,** it is referring **to the animal** itself that he may not sell to the gentile, and that is why he is penalized.

וְהָא ״דָּמָיו״ קָתָנֵי! תְּנֵי: ״דָּמֶיהָ״. וְהָא ״נוֹתֵן כָּל דָּמָיו לַכֹּהֵן״ קָתָנֵי, וְאִי בְּהֵמָה – כֹּהֵן מַאי עֲבִידְתֵּיהּ? הָכָא בְּמַאי עָסְקִינַן – כְּגוֹן דְּיָהֵיב בְּהֵמָה מְעֻבֶּרְתָּא לְפִטּוּמָהּ, דְּמִיגּוֹ דְּקָנְסִינַן לֵיהּ אַבְּהֵמָה, קָנְסִינַן לֵיהּ אַעוּבָּר.

The Gemara asks: **But doesn't** the *baraita* **teach:** The Sages penalize him up to ten times **its value** [***damav***], in masculine form, indicating that it is referring to the fetus and not the mother? The Gemara responds: **Teach** the following wording in the *baraita*: The Sages penalize him up to ten times **its value** [***dameha***], in feminine form. The Gemara asks: **But doesn't it teach: He gives all of its value to the priest? And if** it is referring to **the animal** and not the firstborn, **what is the relevance of** the priest? The Gemara answers: **Here we are dealing with** a case **where** the Jew **gave** the gentile **a pregnant animal to fatten it** in order to divide the profits as well as the offspring. **Since we penalize him for** selling **the animal** in a prohibited manner, **we penalize him with regard to the fetus** as well.

אָמַר רַב אַשִׁי, תָּא שְׁמַע: רַבִּי יְהוּדָה מַתִּיר בְּשִׁבּוּרָה, מִפְּנֵי שֶׁאֵינָהּ יְכוֹלָה לְהִתְרַפְּאוֹת; הָא יְכוֹלָה לְהִתְרַפְּאוֹת – אָסוּר, וְהַאי נַמִי כֵּיוָן דְּיָכוֹל לְהִתְרַפְּאוֹת דָּמֵי. שְׁמַע מִינָּהּ.

Rav Ashi says: Come and **hear** a resolution from a *baraita*: **Rabbi Yehuda deems** the sale to a gentile of **a damaged** animal **permitted, because it is incapable of being cured.** This statement indicates that if it is **capable of being cured,** Rabbi Yehuda **deems** its sale **prohibited. And this** fetus is **also similar to** one who is **able to be cured,** as it ultimately will be capable of working. **Learn from it** that Rabbi Yehuda deems the sale of a fetus to a gentile prohibited.

אִיבַּעְיָא לְהוּ: מָכַר בְּהֵמָה לְעוּבָּרֶיהָ, מַאי? תִּיבָּעֵי לְרַבִּי יְהוּדָה, תִּיבָּעֵי לְרַבָּנַן.

§ **A dilemma was raised before** the Sages concerning the prohibition against selling large livestock to a gentile: In the case of a Jew who **sold an animal** to a gentile only with regard to rights **to its fetuses,** but retained ownership of the animal itself, **what** is the *halakha*[N] concerning the permissibility of the sale? The Gemara clarifies: **Let the dilemma be raised according to** the opinion of **Rabbi Yehuda,** who permits the sale of a damaged animal, and **let the dilemma be raised according to** the opinion of **the Rabbis,** who dispute that ruling.

תִּיבָּעֵי לְרַבִּי יְהוּדָה: עַד כָּאן לָא קָא שָׁרֵי רַבִּי יְהוּדָה אֶלָּא בְּשִׁבּוּרָה, דְּלָא אָתְיָא לְאִיחְלוּפֵי, אֲבָל שְׁלֵמָה דְּאָתְיָא לְאִיחְלוּפֵי – אָסַר.

The Gemara elaborates: **Let the dilemma be raised according to** the opinion of **Rabbi Yehuda,** as follows: Perhaps **Rabbi Yehuda permits only** the sale **of a damaged** animal, **as** people **will not come to confuse** this animal with a healthy animal, which is prohibited for sale to a gentile, as they are visibly different. **But** in the case of one who sells **an unblemished** animal with regard to the rights to its fetuses, **which** people may **come to confuse** with the case of selling the animal entirely and consider that sale permitted as well, Rabbi Yehuda **deems** the sale **prohibited.**

אוֹ דִלְמָא, וּמַה שִׁבּוּרָה דְּפָסְקָה מִינֵּיהּ, וְכָל שֶׁכֵּן שְׁלֵמָה דְּלָא פָּסְקָה מִינֵּיהּ.

Or perhaps Rabbi Yehuda would claim that in the case of **a damaged** animal, **which is separated from him** in its entirety in the sale, the sale is permitted, **and all the more so** with regard to the sale of **an unblemished** animal with regard to the rights to its fetuses, **where** the animal **is not** entirely **separated from him,** as he did not sell the actual animal, the sale is permitted.

תִּיבָּעֵי לְרַבָּנַן: עַד כָּאן לָא קָאָסְרִי רַבָּנַן אֶלָּא בְּשִׁבּוּרָה, דְּפָסְקָה מִינֵּיהּ, אֲבָל שְׁלֵמָה דְּלָא פָּסְקָה מִינֵּיהּ – שָׁרוּ.

Likewise, **the dilemma can be raised according to** the opinion of **the Rabbis:** Perhaps **the Rabbis deemed** the sale **prohibited only in** a case of **a damaged** animal, **as** the animal **is separated from him. But** in the case of **an unblemished** animal that is sold only with regard to the fetuses, **where it is not separated from him,** and there is no concern that people will mistakenly sell the entire animal to a gentile, **they deem** the sale **permitted.**

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אוֹ דִלְמָא, וּמַה שְּׁבוּרָה דְּלָא אָתְיָא לְאִיחְלוּפֵי – אָסְרִי, וְכָל שֶׁכֵּן שְׁלֵמָה דְּאָתְיָא לְאִיחְלוּפֵי.

Or perhaps the Rabbis would claim that in the case of **a damaged** animal, **which** people **will not come to confuse** with the case of an unblemished animal, the Rabbis **deem** the sale **prohibited, and all the more so** they would prohibit selling **an unblemished** animal with regard to the rights to its fetuses, **which** people may **come to confuse** with the case of selling an unblemished animal in its entirety.

וְטַעֲמָא דְּרַבָּנַן מִשּׁוּם הָכִי הוּא? וְהָתַנְיָא, אָמְרוּ לוֹ לְרַבִּי יְהוּדָה: וַהֲלֹא מַרְבִּיעִין עָלֶיהָ וְיוֹלֶדֶת. אַלְמָא מִשּׁוּם עוּבְּרֶיהָ הוּא!

The Gemara asks: **And is the reason of** the opinion of **the Rabbis due to that** concern that people may confuse the sale of a damaged animal with the sale of an unblemished animal in its entirety? **But isn't it taught** in a *baraita* that the Rabbis **said to Rabbi Yehuda: But** why do you hold that is it permitted to sell a damaged animal? **Don't they breed it with** another animal, **and it gives birth** to offspring, which will then be owned by a gentile? **Apparently,** the reason the Rabbis prohibit the sale **is due to** the animal's **fetuses.** If so, they should prohibit selling large livestock to a gentile with regard to the fetuses as well.

הָכִי קָאָמְרִי לֵיהּ: טַעֲמָא דִּידָךְ – מִשּׁוּם דְּאָתְיָא לְאִיחְלוּפֵי בִּבְהֵמָה. אֶלָּא אַתְּ, מַאי טַעֲמָא שָׁרֵית – מִשּׁוּם דְּאֵין יְכוֹלָה לְהִתְרַפְּאוֹת, כְּמַאן דְּזַבְּנָהּ לִשְׁחִיטָה דָּמֵי;

The Gemara answers: This is not truly the Rabbis' opinion. Rather, **this is what they were saying to** Rabbi Yehuda: **Our reason** for prohibiting the sale of a damaged animal is **because** people might **come to confuse** this case **with** the sale of an unblemished **animal. But you, what is the reason** that **you permit** selling a damaged animal? It is **because** the animal is **incapable of being cured,** and you therefore consider it **similar to one who sold** an animal explicitly **for slaughter,**[N] which is permitted.

וַהֲלֹא מַרְבִּיעִין עָלֶיהָ וְיוֹלֶדֶת, וְכֵיוָן דְּמַרְבִּיעִין עָלֶיהָ וְיוֹלֶדֶת, מַשְׁהֶא לָהּ!

But actually it is not similar to that case, as **don't they breed** a damaged animal **with** another animal, **and it gives birth? And since they breed it and it gives birth,** the gentile will **delay** its slaughter. Others may then mistakenly believe that selling large livestock for purposes other than slaughter is permitted.

וַאֲמַר לְהוּ: לִכְשֶׁתֵּלֵד, דְּלָא מְקַבֶּלֶת זָכָר.

And Rabbi Yehuda **said to** the Rabbis in response: **When** a damaged animal actually **gives birth,** I will concern myself with this possibility. Practically, this concern may be disregarded, **as** such an animal **cannot breed with a male.** In any event, no proof may be brought from this *baraita* concerning the opinion of the Rabbis concerning selling an animal with regard to the rights to its fetuses.

תָּא שְׁמַע: וְהַנּוֹתֵן לוֹ בְּקַבָּלָה, וְלָא קָתָנֵי ״אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי״!

The Gemara suggests: **Come** and **hear** a proof from the mishna, where it states: **And** in the case of **one who gives** his donkey **to** a gentile **in receivership,** meaning that he divides the offspring with him in exchange for caring for the animal, the donkey is exempt from the obligations of firstborn status. This case is identical to that of selling an animal with regard to the rights to its fetuses, **and** the mishna **does not teach: Although he is not permitted** to do so. Apparently such a sale is permitted.

וְלִיטַּעֲמֵיךְ, הַמִּשְׁתַּתֵּף לוֹ, דְּלָא קָתָנֵי, הָכִי נַמִּי דְּרַשַּׁאי? וְהָא אָמַר אַבּוּהּ דִּשְׁמוּאֵל: אָסוּר לְאָדָם שֶׁיַּעֲשֶׂה שׁוּתָּפוּת עִם הַגּוֹי, שֶׁמָּא יִתְחַייֵב לוֹ שְׁבוּעָה, וְנִשְׁבָּע לוֹ בְּשֵׁם עֲבוֹדָה זָרָה שֶׁלּוֹ, וְהַתּוֹרָה אָמְרָה: ״לֹא יִשָּׁמַע עַל פִּיךָ״!

The Gemara responds: **But according to your reasoning,** with regard to that which the mishna states: **One who enters into a partnership with** a gentile, **where it** also **does not teach:** Although he is not permitted to do so, **so too,** should it be derived **that** it is **permitted** to enter into such a partnership? **But doesn't Shmuel's father say: It is prohibited for a person to enter** into **a partnership with a gentile**[H] **lest** their joint ventures lead them to quarrel and his gentile partner **will be obligated to take an oath to him and he will take an oath in the name of his** object of **idol worship; and the Torah states: "Neither let it be heard out of your mouth"** (Exodus 23:13), which includes causing a gentile to take an oath in the name of an idol.

NOTES

Similar to one who sold it explicitly for slaughter – כְּמַאן דְּזַבְּנָהּ לִשְׁחִיטָה דָּמֵי: Rabbeinu Gershom Meor HaGola adds that one who purchases an animal for slaughtering generally slaughters it immediately. Therefore, no concern exists that others will see the animal in the possession of the gentile and mistakenly conclude that it is permitted to sell him a healthy animal.

HALAKHA

It is prohibited for a person to enter into a partnership with a gentile – אָסוּר לְאָדָם שֶׁיַּעֲשֶׂה שׁוּתָּפוּת עִם הַגּוֹי: One should be careful not to enter into a partnership with a gentile, as the gentile might eventually be obligated to take an oath to him in the name of his god, and the Jew would thereby transgress the prohibition of "neither let it be heard out of your mouth," as stated by Shmuel's father. Some authorities, such as the Rema, citing *Tosafot* here, allow entering into a partnership with Christians because they do not take oaths by pagan gods. Their references to God are to the Creator of the world. Though they invoke other entities together with God, gentiles are not prohibited from invoking God alongside additional forces. Therefore, there is no violation of the prohibition against causing another to sin: "You shall not place a stumbling block before the blind" (Leviticus 19:14), when one causes a Christian to take an oath (Rambam *Sefer Kinyan*, *Hilkhot Sheluḥin VeShutafin* 5:10; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 156:1 and in the comment of Rema, and *Yoreh De'a* 147:3).

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אֶלָּא, תְּנָא מְכִירָה – וְהוּא הַדִּין לְשׁוּתָּפוּת, הָכִי נַמִּי: תְּנָא מְכִירָה – וְהוּא הַדִּין לְקַבָּלָנוּת. וּמַאי שְׁנָא מְכִירָה דְּנָקֵט? דְּעִיקַּר מְכִירָה הִיא.

Rather, the *tanna* **taught** that **a sale** to a gentile is not permitted, **and the same is true for** the case of **a partnership. So too,** the *tanna* **taught** that **a sale** to a gentile is prohibited, **and the same is true for** a case of **receivership.** The Gemara asks: **And what is different** about the case of **selling that** the *tanna* **cited** the prohibition specifically in that case? The Gemara answers **that** the **primary** prohibition **is** that of **selling** the animal to a gentile.

תָּא שְׁמַע, רַבִּי יְהוּדָה אוֹמֵר: הַמְקַבֵּל בְּהֵמָה מִן הַגּוֹי וְיָלְדָה – מַעֲלִין אוֹתוֹ בְּשׁוּוִיו, וְנוֹתֵן חֲצִי דָּמָיו לַכֹּהֵן. וְהַנּוֹתֵן בְּקַבָּלָה, אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי – קוֹנְסִין אוֹתוֹ עַד עֲשָׂרָה בְּדָמָיו, וְנוֹתֵן כָּל דָּמָיו לַכֹּהֵן.

The Gemara suggests: **Come** and **hear** a resolution to the dilemma of whether selling an animal to a gentile with regard to the rights to its fetuses is permitted from a *baraita*: **Rabbi Yehuda says** that in the case of **one who receives an animal from a gentile** to care for and receives a portion of the offspring in exchange for his work, **and it gave birth** to a firstborn, **they assess its value, and** the Jew **gives half of its value to the priest** to redeem his portion, which is considered to have the sanctity of a firstborn. **And** in the case of **one who gives** the gentile an animal **in receivership even though he is not permitted** to do so, the Sages **penalize him** by requiring that he purchase the gentile's portion of the animal for **up to ten** times **its value, and he gives all of its value to the priest.**

וַחֲכָמִים אוֹמְרִים: כָּל זְמַן שֶׁיַּד הַגּוֹי בָּאֶמְצַע – פְּטוּרָה מִן הַבְּכוֹרָה.

And the Rabbis say: As long as the ownership of the gentile is involved, in that he possesses at least partial ownership of the mother or the fetus, the animal **is exempt from** its offspring being counted **a firstborn.**

Perek **I**
Daf **3** Amud **a**

מַאי לָאו, אַבְּהֵמָה? לָא, אַעוּבָּר.

What, is the *baraita* **not** referring **to the animal** when it prohibits giving it in receivership? If so, the *baraita* prohibits giving it to the gentile in exchange for half the rights to future fetuses, and certainly giving the gentile rights to all the future fetuses would be forbidden. The Gemara responds: **No,** it is referring **to** a case of an existing **fetus,** as the animal is pregnant, and therefore it is prohibited to sell it. It is permitted to sell to a gentile an animal that is not yet pregnant, for the rights to the fetuses alone.

דַּיְקָא נַמִּי, דְּקָתָנֵי: קוֹנְסִין אוֹתוֹ עַד עֲשָׂרָה בְּדָמָיו, שְׁמַע מִינָּהּ.

The Gemara comments: The language of the *baraita* **is also precise, as** it **teaches:** The Sages penalize him up to ten times **its value** [***damav***], in masculine form, indicating that it is referring to the fetus and not the mother. The Gemara affirms: **Learn from it** that this is correct, and it cannot be proven from the *baraita* that it is forbidden to sell rights to a future fetus to a gentile.

מְסַיְּיעָא לֵיהּ לְרֵישׁ לָקִישׁ, דְּאָמַר רֵישׁ לָקִישׁ: הַמּוֹכֵר בְּהֵמָה גַּסָּה לְגוֹי – קוֹנְסִין אוֹתוֹ עַד עֲשָׂרָה בְּדָמֶיהָ.

The Gemara comments that the language of the *baraita*: The Sages penalize him up to ten times its value, **supports** the opinion of **Reish Lakish, as Reish Lakish says:** In the case of **one who sells large livestock to a gentile,**[H] the Sages **penalize him,** requiring him to repurchase it from the gentile for **up to ten times its value.**

HALAKHA

One who sells large livestock to a gentile – הַמּוֹכֵר בְּהֵמָה גַּסָּה לְגוֹי: The Sages prohibited the sale of large livestock used for labor to a gentile, due the concern that this may lead to a Jew renting or lending his animal to a gentile who will perform prohibited labor with the Jew's animal. If the Jew sold the animal, he is penalized and must purchase the animal back from the gentile even if it costs up to ten times the animal's value. It is permitted to sell such animals through a broker, as it is uncommon to lend or rent them in this manner. There are places where the accepted practice is not to sell small domesticated animals to gentiles as well.

Today, the common practice is to be lenient about these issues, and the *Shakh* offers various reasons why this is the case. Consequently, it is permitted to engage in the trade of livestock even if one will sell to gentiles, though it is recommended to limit this practice. In any event, it is prohibited for a Jew to lend or rent large domesticated animals to a gentile (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 20:3; *Shulḥan Arukh*, *Yoreh De'a* 151:4).

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דַּוְקָא אוֹ לָאו דַּוְקָא? תָּא שְׁמַע, דְּאָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: הַמּוֹכֵר עַבְדּוֹ לְגוֹי – קוֹנְסִין אוֹתוֹ עַד מֵאָה בְּדָמָיו! שָׁאנֵי עֶבֶד, דְּכָל יוֹמָא וְיוֹמָא מַפְקַע לֵיהּ מִמִּצְוֹת.

The Gemara asks: Does the phrase: For up to ten times its value, mean **specifically** this amount and no more, **or** does it **not** mean **specifically** this amount? The Gemara suggests: **Come** and **hear** a proof from that **which Rabbi Yehoshua ben Levi says:** In the case of **one who sells his** Canaanite **slave**[B] **to a gentile,**[H] the Sages **penalize him,** requiring him to repurchase the slave from the gentile for **up to one hundred times its value.**[N] It is therefore evident that the phrase: For up to ten times its value, is not precise. The Gemara responds: **A slave is different, as each day** that he works for the gentile, the gentile **restricts him from** performing **mitzvot.** Therefore, one who sells a slave is penalized more severely than one who sells his animal to a gentile.

וְאֵיפְכָּא דְּאָמְרִי: אָמַר רֵישׁ לָקִישׁ: הַמּוֹכֵר בְּהֵמָה גַּסָּה לְגוֹי – קוֹנְסִין אוֹתוֹ עַד מֵאָה בְּדָמֶיהָ. תְּנַן: וְהַנּוֹתֵן לוֹ בְּקַבָּלָה, אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי – קוֹנְסִין אוֹתוֹ עַד עֲשָׂרָה בְּדָמֶיהָ!

And there are those **who say** that there is another version of the previous discussion: **Reish Lakish says** that in the case of **one who sells large livestock to a gentile,** the Sages **penalize him,** requiring him to repurchase it from the gentile for **up to one hundred times its value. We learned** in a *baraita*: **And** in the case of **one who gives** the gentile an animal **in receivership even though he is not permitted** to do so, the Sages **penalize him** by requiring that he purchase the gentile's portion of the animal for **up to ten** times **its value.** This contradicts the statement of Reish Lakish.

מְכִירָה פָּסְקָה מִינֵיהּ, קַבָּלָנוּת – לָא פָּסְקָה מִינֵיהּ.

The Gemara responds: The penalties in these two cases are not the same, as in a case of **a sale,** the animal is entirely **separated from** the Jew, while in the case of **receivership,** it is **not** entirely **separated from him,** as the animal still belongs to the Jew. Therefore, the penalty in this case is not as severe.

דַּוְקָא אוֹ לָאו דַּוְקָא? תָּא שְׁמַע, דְּאָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: הַמּוֹכֵר עַבְדּוֹ לְגוֹי – קוֹנְסִין אוֹתוֹ עַד עֲשָׂרָה בְּדָמָיו. שָׁאנֵי עֶבֶד, דְּלָא הָדַר לֵיהּ.

The Gemara asks: Does the amount of one hundred times its value stated by Reish Lakish mean **specifically** this amount and no more, **or** does it **not** mean **specifically** this amount? The Gemara suggests: **Come** and **hear** a proof from that **which Rabbi Yehoshua ben Levi says:** In the case of **one who sells his** Canaanite **slave to a gentile,** the Sages **penalize him,** requiring him to repurchase the slave from the gentile for **up to ten times its value.** Apparently, the number one hundred is not meant literally. The Gemara responds: **A slave is different, since** the Sages already penalized the owner in that the slave **does not return to him.** Since the slave will be emancipated once the master redeems him, it may be that the Sages would not penalize him to such a great extent.

בְּהֵמָה מַאי טַעֲמָא – מְשׁוּם דְּקָא הָדְרָא לֵיהּ; נִיקְנְסֵיהּ טְפֵי חַד! אֶלָּא, עֶבֶד – מִילְּתָא דְּלָא שְׁכִיחָא הִיא, וְכָל מִילְּתָא דְּלָא שְׁכִיחָא לָא גָּזְרוּ בֵּיהּ רַבָּנַן.

The Gemara challenges: Rather, **what is the reason** that he is penalized in the case of an **animal** more so than in the case of a slave? Is it **because** of the fact **that it returns to him?** If so, **he should be penalized** only **one additional** amount. If the difference is that an animal returns to its owners and a slave does not, then the difference in penalties should be reflective of this, and he should have to purchase the animal for no more than eleven times its value. **Rather,** the Gemara offers a different distinction: The sale of **a slave** is **an uncommon matter, and the Sages did not issue a decree with regard to an uncommon matter.** Therefore, one cannot compare the penalty in the case of selling a slave to the penalty in the case of selling an animal.

BACKGROUND

Canaanite slave – עֶבֶד כְּנַעֲנִי: The term Canaanite slave refers to any gentile slave purchased by a Jew (see Leviticus 25:44–46), while a female gentile slave is called a Canaanite maidservant. Upon being purchased by a Jew, a Canaanite slave must be immersed in a ritual bath, and, if male, circumcised. These actions effect a change in the slave's status. Though not yet a Jew in all respects, a Canaanite slave must observe all the Torah's prohibitions and fulfill all positive mitzvot that are not time bound.

In many respects, Canaanite slaves are considered their masters' property and may be sold and purchased like other possessions. In fact, the slaves' status generally resembles that of real estate. For example, they are acquired by means of the same legal transactions as real estate, and have the same halakhic status with regard to the *halakhot* of exploitation in a sale.

A Canaanite slave owned by a priest may partake of *teruma*, the portion of the produce designated for the priest. A Canaanite slave serves his master for life and is inherited by his master's heirs. His master is in principle entitled to free him by handing him a bill of manumission, which is similar to a bill of divorce. Nevertheless, there is a positive mitzva not to free a Canaanite slave without compelling reason. A slave is automatically emancipated if his master blinds him, knocks out his tooth, or damages any one of twenty-four extremities, regardless of whether the master caused the damage intentionally or not (see Exodus 21:26–27). Moreover, if a master severely beats his slave to the extent that the slave dies within twenty-four hours of the beating, the master is executed as a murderer (see Exodus 21:20–21).

Another instance where a Canaanite slave is emancipated is when his master sells him to a gentile, or a master living in Eretz Yisrael sells his slave to a Jew living outside Eretz Yisrael, or if an adult Canaanite slave flees to Eretz Yisrael. In these three cases, his master must give him a bill of manumission.

HALAKHA

One who sells his slave to a gentile – הַמּוֹכֵר עַבְדּוֹ לְגוֹי: If one sells his Canaanite slave to a gentile, even if the gentile resides in Eretz Yisrael and observes the seven Noahide mitzvot, the slave is emancipated according to *halakha*. If the slave escapes his gentile master, his original master may not reenslave him. If the slave does not escape, the court forces the original master to redeem him from the gentile, even if he must pay ten times the purchase price, and the master must then give him a bill of manumission to enable him to marry a Jewish woman. This penalty is enforced only by a court of expert judges (Rambam). The Rosh rules that penalties instituted by the Sages, such as this one, can also be enforced by non-expert judges. The Rema (*Ḥoshen Mishpat* 1:5) rules accordingly (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 8:1; *Shulḥan Arukh*, *Yoreh De'a* 267:80).

NOTES

Up to one hundred times its value – עַד מֵאָה בְּדָמָיו: Commentaries disagree as to the precise nature of the proof and of the Gemara's rebuttal. Rashi and Rabbeinu Gershom Meor HaGola explain that since there is one amount stated in the case of a slave and another in the case of an animal, the amounts given must both be precise. The Gemara's rebuttal is that with regard to a slave, where there is a unique stringency, the amount of one hundred times his value is in fact precise. With regard to an animal, however, the amount is not precise, and the former owner does not need to pay up to ten times its value. Rather, it needs to be redeemed at some price higher than its actual value.

By contrast, Rabbeinu Yitzḥak of Dampierre explains that the Gemara is deriving that just as the *halakha* with regard to a slave is that the former owner must pay up to one hundred times its value, so too, with regard to an animal the *halakha* should be identical, and the formulation of: For up to ten times its value, is not exact. The Gemara then rejects this and claims the formulation with regard to an animal is also precise, and the penalty for selling the animal is no more than ten times the actual value (*Shita Mekubbetzet*, citing *Tosafot Ḥitzoniyyot*; see Rashash).

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HALAKHA

Even if he owns only its ear – אֲפִילּוּ אָזְנוֹ: If the gentile owned rights to one limb of the mother or the fetus, such as a hand or a leg, the fetus does not have firstborn status if, should the limb be cut off, the animal would be rendered blemished. This ruling is in accordance with the statement of Rabbi Yoḥanan on 3b (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:1; *Shulḥan Arukh*, *Yoreh De'a* 320:4).

"וְחֲכָמִים אוֹמְרִים: כָּל זְמַן שֶׁיֵּשׁ הַגּוֹי" כו'. אָמַר רַבִּי יְהוֹשֻׁעַ, וּשְׁנֵיהֶם מִקְרָא אֶחָד דָּרְשׁוּ: "כָּל בְּכוֹר".

§ A previously cited *baraita* (2b) states that if one receives an animal from a gentile to care for and receives a portion of the offspring in exchange, Rabbi Yehuda holds that the Jew's portion is sanctified with firstborn status. **And the Rabbis say** that **as long as the ownership of the gentile** is involved, i.e., he owns a portion of the firstborn animal, it does not have firstborn status. **Rabbi Yehoshua said: And both of them interpreted** the same **one verse** in accordance with their opinions. The verse states: "Sanctify to Me **all the firstborn,** whatever opens the womb, among the children of Israel" (Exodus 13:2).

רַבָּנַן סָבְרִי: "בְּכוֹר" – מִקְצָת בְּכוֹר מַשְׁמַע, כְּתַב רַחֲמָנָא "כָּל" – עַד דְּאֵיכָּא כּוּלֵּיהּ. וְרַבִּי יְהוּדָה סָבַר: "בְּכוֹר" – כּוּלֵּיהּ בְּכוֹר מַשְׁמַע, כְּתַב רַחֲמָנָא "כָּל" – דַּאֲפִילּוּ כָּל דְּהוּא.

The Rabbis hold that the words "**the firstborn,** whatever opens the womb, among the children of Israel" **indicate** that even when a Jew owns **part of the firstborn,** it is subject to the obligations of firstborn status. Therefore, **the Merciful One wrote: "All** the firstborn," which teaches that it is not subject to the obligations of firstborn status **unless the entire** animal is owned by a Jew. **And Rabbi Yehuda holds** that the words "**the firstborn,** whatever opens the womb, among the children of Israel" **indicate** that only if **the entire firstborn** is owned by a Jew would it be subject to the obligations of firstborn status. Therefore, **the Merciful One wrote** the word "**all**" to demonstrate **that even** if **any amount** of the animal belongs to a Jew, it has firstborn status.

אִיבָּעֵית אֵימָא: דִּכוּלֵּי עָלְמָא "בְּכוֹר" – רוּבָּא מַשְׁמַע, מָר סָבַר: "כָּל" מַשְׁמַע לְמַלּוּיֵי אַתָּא, וּמָר סָבַר: לְגָרוּעֵי אַתָּא.

If you wish, say instead **that everyone** agrees that the words "**the firstborn,** whatever opens the womb, among the children of Israel" **indicate** that if the **majority** of the animal belongs to the Jew, it is subject to the obligations of firstborn status. One **Sage,** i.e., the Rabbis, **holds** that the word "**all**" **indicates** that it **comes to fill** the Jewish portion of ownership, meaning that it has firstborn status only if the entire animal belongs to a Jew. **And** one **Sage,** i.e., Rabbi Yehuda, **holds** that the word "all" **comes to detract** from the necessary Jewish ownership, indicating that the animal has firstborn status even if it is partially owned by a Jew.

וְכַמָּה תְּהֵא שׁוּתָּפוּת שֶׁל גּוֹי, וּתְהֵא פְּטוּרָה מִן הַבְּכוֹרָה? אָמַר רַב הוּנָא: אֲפִילּוּ אָזְנוֹ. מַתְקִיף לָהּ רַב נַחְמָן: וְלֵימָא לֵיהּ "שְׁקֵיל אָזְנָךְ וְזִיל"!

§ The Gemara asks: **And** according to the Rabbis, **how much should the gentile's partnership** in the animal **be**[N] in order for it **to be exempt from** being counted **a firstborn? Rav Huna says:** It is sufficient **even** if the gentile owns only **its ear.**[H] **Rav Naḥman objects to this:** Let the animal have firstborn status, **and let** the priest **say to** the gentile: **Take your ear and go,** as a blemished firstborn animal belongs to the priesthood.

אִיתְּמַר, רַב חִסְדָּא אָמַר: דָּבָר שֶׁעוֹשֶׂה אוֹתוֹ נְבֵלָה, וְרָבָא אָמַר: דָּבָר שֶׁעוֹשֶׂה אוֹתוֹ טְרֵיפָה.

It **was stated** that the *amora'im* engaged in a dispute concerning this question: **Rav Ḥisda says** that if the gentile is a partner in **an item,** i.e., a part of the body, **that renders** the animal **a carcass,** meaning if that limb were removed the animal would die immediately, the animal is exempt from the obligations of firstborn status. **And Rava says** it is exempt if the gentile is a partner in **an item that** if removed **renders** the animal **a *tereifa*,**[N] meaning the animal will die but not immediately.

NOTES

And how much should the gentile's partnership be – וְכַמָּה תְּהֵא שׁוּתָּפוּת שֶׁל גּוֹי: It appears from the Rambam (*Sefer Korbanot*, *Hilkhot Bekhorot* 4:2) that everyone agrees if the gentile owns even a miniscule portion, such as one-thousandth, of the entire mother or fetus, the fetus does not have firstborn status, as it does not fulfill the verse "all the firstborn in Israel." Rather, they disagree only in the case where the gentile owns a specific portion of the body of the mother or fetus. In that case, it must be determined if he is treated as a partner in the entire animal.

***Tereifa* – טְרֵיפָה:** The Torah (see Exodus 22:30) prohibits the consumption of an animal with a wound that will cause it to die within twelve months [*tereifa*]. The Sages listed the various types of *tereifa* in tractate *Ḥullin*, which are derived from *halakha* transmitted to Moses from Sinai, such as an animal that was torn by the claws of a lion and an animal whose leg was severed above the knee (*Ḥullin* 76a). According to Rava, if the gentile owned part of the leg above the knee, the fetus does not have firstborn status.

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בְּמַאי קָמִיפַּלְגִי? בְּטְרֵיפָה חַיָּה, לְמַאן דְּאָמַר דָּבָר שֶׁעוֹשֶׂה אוֹתוֹ טְרֵיפָה – קָסָבַר: טְרֵיפָה אֵינָהּ חַיָּה, וּלְמַאן דְּאָמַר דָּבָר שֶׁעוֹשֶׂה אוֹתוֹ נְבֵלָה – אֲבָל טְרֵיפָה חַיָּה.

The Gemara asks: **With regard to what** principle **do** they **disagree?** The Gemara answers that they disagree **about** whether **a *tereifa*** can **live** for an extended period of time. **According to the one who says** that a gentile's partnership in **an item that renders** the animal **a *tereifa*** exempts him from the obligations of firstborn status, it is because **he holds** that **a *tereifa* cannot live,** and therefore the gentile owns an essential portion of the animal. **And according to the one who says** that the gentile must be a partner in **an item that renders** the animal **a carcass,** this is because he holds that it cannot live without this part, **but a *tereifa* can live** for an extended period of time without those missing limbs.

אֲמַרוּהָ רַבָּנַן קַמֵּיהּ דְּרַב פַּפָּא: הָא דְּרַב הוּנָא וְרַב חִסְדָּא וְרָבָא לָא פְּלִיגִי, הָא – בּוֹ, הָא – בְּאִמּוֹ.

The Sages said before Rav Pappa: That which Rav Huna said, that even if the gentile's share of the animal is only its ear it does not have firstborn status, **and** that which **Rav Ḥisda and Rava** said, that the animal does not have firstborn status only if the gentile is a partner in the primary limbs of the body on which its life is dependent, **do not disagree. This** ruling of Rav Huna is referring **to it,** i.e., the fetus, while **that** ruling of Rav Ḥisda and Rava is referring **to its mother.**

אֲמַר לְהוּ רַב פַּפָּא: מַאי שְׁנָא בּוֹ – דְּבָעֵינַן ״כָּל בְּכוֹר״ וְלֵיכָא, אִמּוֹ נַמִּי – בָּעֵינַן ״כָּל מִקְנֶךָ תִּזָּכָר״ וְלֵיכָא! אֶלָּא, לָא שְׁנָא.

Rav Pappa said to them: What is different about the case of the fetus, where owning a portion of its ear exempts the Jew from the obligations of firstborn status? It is **because we require** the fulfillment of the verse "**all the firstborn,**" i.e., that all of it be owned by the Jew, **and** that **is not** the case. If so, with regard to **its mother as well we require** the fulfillment of the verse: "**From all your livestock you shall take the males**" (Exodus 34:19), which also indicates that all the livestock, including the mother, must belong to the Jew, **and** this **is not** the case. **Rather,** there **is no difference,** and they disagree both in the case of the fetus and in that of the mother.

מַתְקִיף לָהּ מָר בַּר רַב אַשִׁי: מַאי שְׁנָא מִנְּפָלִים, דְּאַף עַל גַּב דְּלָאו בְּנֵי חִיּוּתָא נִינְהוּ – קָדְשִׁי, דְּאָמַר מָר: ״פֶּטֶר שֶׁגֶר בְּהֵמָה״ – שֶׁגֶר בַּבְּהֵמָה!

Mar bar Rav Ashi objects to this: Why does gentile partnership in an essential limb of the fetus exempt the Jew from the obligations of firstborn status? In **what** way **is** this animal **different from nonviable newborns, which are sacred even though they are not viable? As the Master said** in reference to the verse: "Every **firstborn** that **emerges from** [***sheger***] **an animal"** (Exodus 13:12),[N] any fetus **that dwells** [***shegar***] **inside an animal,** i.e., inside the mother's womb, even one that is non-viable, is also sanctified as a firstborn.

הָתָם, כֵּיוָן דְּלָא עֲרִיבוּ בְּהוּ חוּלִּין – קָרֵינָא בְּהוּ בַּבְּהֵמָה ״כָּל בְּכוֹר״, הָכָא – כֵּיוָן דַּעֲרִיבוּ בְּהוּ חוּלִּין, לָא קָרֵינָא בְּהוּ ״כָּל בְּכוֹר״.

The Gemara responds: **There,** in the case of non-viable newborns, **since there is no non-sacred** element **mixed in with them, we apply to the animal** the phrase "**all the firstborn.**" But **here,** in the case where a gentile owns a portion of the fetuses, **since a non-sacred** element **is mixed in with them, we do not apply to them** the phrase: "**all the firstborn.**"

רַבִּי אֶלְעָזָר לָא עַל לְבֵי מִדְרְשָׁא, אַשְׁכְּחֵיהּ לְרַבִּי אַסִי, אֲמַר לֵיהּ: מַאי אֲמוּר רַבָּנַן בֵּי מִדְרְשָׁא? אֲמַר לֵיהּ:

The Gemara relates that one day **Rabbi Elazar did not enter the study hall.** Rabbi Elazar then **found Rabbi Asi,** and **said to him: What did the Sages say** in **the study hall?** Rabbi Asi **said to him:**

NOTES

Every firstborn that emerges from an animal – פֶּטֶר שֶׁגֶר בְּהֵמָה: The interpretation used in the text is that found in the first interpretation of Rashi. According to his second interpretation, the word: Emerges from [*sheger*], when employed independently, does not mean a non-viable newborn, but rather any offspring, as it is used in the verse: "The offspring of your cattle [*shegar alafekha*]" (Deuteronomy 7:13). In this case, since the verse mentioned here already used the term: "Firstborn of the womb" (Exodus 13:12), the term: Emerges from [*sheger*], presumably adds that any being that the mother expels from its stomach, including a non-viable newborn, is also sanctified with firstborn status.

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HALAKHA

A ewe that gave birth to a goat of sorts, etc. – רָחֵל שֶׁיָּלְדָה מִין עֵז וכו׳: If a ewe gave birth to a goat of sorts, or a goat gave birth to a ewe of sorts, it does not have firstborn status. If it had certain characteristics of its mother it is still considered a firstborn, but one possessing a permanent blemish, as an unusual appearance is the greatest type of blemish possible. This ruling is in accordance with the mishna and the opinion of Rabbi Yoḥanan (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:6).

One of its eyes large and one small – עֵינוֹ אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה: One of the types of blemishes that is unique to animals is where one eye is as large as that of a calf, while the second is as small as that of a goose (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2).

NOTES

A ewe that gave birth to a goat of sorts…and if the offspring has some of the characteristics of its mother, it is obligated – רָחֵל שֶׁיָּלְדָה מִין עֵז...וְאִם יֵשׁ בּוֹ מִקְצָת סִימָנִין חַיָּיב: The reason a goat that was born to a ewe is not deemed a firstborn is that firstborn status applies only to a sheep that was born to a sheep, and this offspring is not considered a sheep (5b). If it has some characteristics of the mother then it is considered to be a sheep that was born to a sheep, but it is blemished.

הָכִי אָמַר רַבִּי יוֹחָנָן: אֲפִילּוּ מוּם קַל. וְהָדְתְּנַן: רָחֵל שֶׁיָּלְדָה מִין עֵז, וְעֵז שֶׁיָּלְדָה מִין רָחֵל – פְּטוּרָה מִן הַבְּכוֹרָה, וְאִם יֵשׁ בּוֹ מִקְצָת סִימָנִין – חַיָּיב, מוּם קָבוּעַ הָוֵי לִשְׁחוֹט עָלָיו.

This is what **Rabbi Yoḥanan said: Even** if only **a slight blemish** would result from the removal of the portion of the animal owned by the gentile, the animal still does not have firstborn status. **And** in addition, Rabbi Yoḥanan also commented on **that which we learned** in a mishna (16b): **A ewe that gave birth to a goat of sorts**[H] **and a goat that gave birth to a ewe of sorts are exempt** from the mitzva of the **firstborn. And if** the offspring **has some of the characteristics** of its mother, it is **obligated,**[N] i.e., subject to the obligations of firstborn status. Rabbi Yoḥanan commented: Nevertheless, it may not be sacrificed on the altar because this **is a permanent blemish.** Therefore, a priest is permitted **to slaughter it** outside of the Temple.

בְּשִׁלְמָא מוּם קַל – קָא מַשְׁמַע לָן כִּדְרַב הוּנָא, וּלְאַפּוּקֵי מִדְּרַב חִסְדָּא וְרָבָא.

The Gemara asks: **Granted** that Rabbi Yoḥanan's first statement that the animal does not have firstborn status even if it has **a slight blemish** is necessary, as he **teaches us** that he holds **in accordance with** the opinion **of Rav Huna,** who said previously (2b) that even if the gentile owns only the ear of the firstborn it does not have firstborn status, **and** his statement is **to the exclusion of** the opinions of **Rav Ḥisda and Rava,** who said the gentile must own a portion of the fetus that would render it a carcass or a *tereifa* if it were removed.

אֶלָּא מוּם קָבוּעַ, מַאי קָא מַשְׁמַע לָן – דְּכֵיוָן דְּאִישְׁתַּנֵּי חֲזָה לֵיהּ מוּמָא? תָּנֵינָא: וּפִיו דּוֹמֶה כְּשֶׁל חֲזִיר – הֲרֵי זֶה מוּם!

But with regard to Rabbi Yoḥanan's second statement that a goat of sorts that was born to a ewe but has some characteristics of the mother is considered to have **a permanent blemish, what is** it **teaching us?** Is it teaching **that since it** looks **different** from the normal appearance of a sheep this appearance **is** considered **a blemish? We** already **learned** this in the mishna (40a): **Or** with regard to a lamb **whose mouth is similar to that of a pig, that is a blemish** that enables slaughter of the firstborn.

וְכִי תֵּימָא הָתָם נִשְׁתַּנָּה בְּדָבָר שֶׁאֵין בְּמִינוֹ קְדוּשׁ בִּבְכוֹרָה, הָכָא נִשְׁתַּנָּה בְּדָבָר שֶׁבְּמִינוֹ קְדוּשׁ בִּבְכוֹרָה – הָא נַמִּי תָּנֵינָא: עֵינוֹ אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה;

And if you would say that **there,** where the animal's mouth is similar to that of a pig, its appearance **was altered into a being in whose species there is no sanctity of the firstborn,** while **here,** where it looks like a goat, its appearance **was altered into a being in whose species** there is **sanctity of the firstborn,** and Rabbi Yoḥanan teaches that this animal too is considered to be blemished, **we** already **learned this, too,** in the subsequent mishna (40b): An animal with **one of its eyes large and one** small[HB] is also considered blemished.

וְתָנָא: גְּדוֹלָה – גְּדוֹלָה כְּשֶׁל עֵגֶל, וּקְטַנָּה – קְטַנָּה כְּשֶׁל אַוָּוז. בְּשִׁלְמָא קְטַנָּה כְּשֶׁל אַוָּוז – אֵין בְּמִינוֹ קְדוּשׁ בִּבְכוֹרָה, אֶלָּא גְּדוֹלָה כְּשֶׁל עֵגֶל – יֵשׁ בְּמִינוֹ קְדוּשׁ בִּבְכוֹרָה! אֶלָּא לָאו מִשּׁוּם דְּאָמְרִינַן: כֵּיוָן דְּאִישְׁתַּנֵּי, חֲזָה לֵיהּ מוּמָא!

And a *tanna* **taught** in explanation of the mishna: **A large** eye is referring to one as **large as that of a calf, and a small** eye is referring to one as **small as that of a goose. Granted,** in the case of an eye as **small as that of a goose** the reason it is considered a blemish is that **there is no sanctity of the firstborn among its species,** i.e., that of a bird. **But** in the case of an eye that is as **large as that of a calf there is sanctity of a firstborn among its species.**[B] **Rather,** is it **not** considered blemished **because we say** that **since it has changed** from the appearance of a sheep **it is** considered **a blemish?** Therefore, Rabbi Yoḥanan's statement has still not introduced any novelty.

BACKGROUND

One of its eyes large and one small – עֵינוֹ אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה: Various factors, such as genes, illnesses, or exposure to hazardous material, may cause an animal to have smaller eyes than is usual for animals. These factors may also lead to asymmetry between the two eyes. Likewise, some illnesses may cause the eye to appear larger than average. For instance, certain types of cancer located in close proximity to the eye may cause it to bulge out and appear much larger than usual.

Eye of a sheep, goose, and calf – עַיִן שֶׁל כֶּבֶשׂ אַוָּוז וְעֵגֶל: In contrast to the average diameter of the eye of a sheep, which is approximately 24 mm, the average diameter of the eye of a goose is approximately 12 mm, while that of a calf is 32 mm.

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לָא, מִשּׁוּם דַּהֲוָה לֵיהּ שָׂרוּעַ. הָכִי נַמִּי מִסְתַּבְּרָא, דְּתָנַן: מוּמִין אֵלּוּ, בֵּין קְבוּעִין בֵּין עוֹבְרִין – פּוֹסְלִין. יָתֵר עֲלֵיהֶן אָדָם, עֵינָיו שְׁתֵּיהֶן גְּדוֹלוֹת, שְׁתֵּיהֶן קְטַנּוֹת.

The Gemara responds: **No,** an eye as large as that of a calf is considered a blemish **because** the animal **is one that has a limb that is too large** [*sarua*],[N] which is listed in the Torah as one of the blemished animals (see Leviticus 22:23). The Gemara comments: **This, too, stands to reason, as we learned** in a mishna (43a): Concerning **these blemishes** that were taught with regard to an animal, **whether** they are **permanent or transient,** they also disqualify a priest from performing the Temple service. And the subsequent mishna (44a) adds: **Beyond those are** additional blemishes that apply exclusively to **a person,** i.e., a priest: If **both of his eyes are large,** or **both of them are small.**[H]

גַּבֵּי אָדָם הוּא דִּכְתִיב: ״אִישׁ אִישׁ מִזֶּרַע אַהֲרֹן״, דְּבָעֵינַן אִישׁ שָׁוֶה בְּזַרְעוֹ שֶׁל אַהֲרֹן, אֲבָל בִּבְהֵמָה – שְׁתֵּיהֶן גְּדוֹלוֹת שְׁתֵּיהֶן קְטַנּוֹת נַמִּי לָא הָוֵי מוּמָא.

The reason for the latter *halakha* is that **it is with regard to a person that it is written: "Any man from the offspring of Aaron"** (Leviticus 22:4), which indicates **that we require a man who is equal to the seed of Aaron,** i.e., he has an ordinary appearance like other priests; **but** with regard to **an animal,** if **both** eyes **are big** or **both** eyes **are small, it is also not a blemish.**

אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה מַאי טַעְמָא? אִי מִשּׁוּם שִׁינּוּי – אֲפִילּוּ שְׁתֵּיהֶן גְּדוֹלוֹת שְׁתֵּיהֶן קְטַנּוֹת נַמִּי! אֶלָּא לָאו מִשּׁוּם דַּהֲוָה לֵיהּ שָׂרוּעַ.

Accordingly, if **one** of the animal's eyes **is big or one is small, what is the reason** that it is considered a blemish? **If** it is **due to** the **deviation** in appearance, meaning it does not look like a sheep, then **even** if **both** eyes **are big** or **both are small** it should be considered a blemish. **Rather, is it not because it is** an animal **with a limb that is too large?**

לָא, לְעוֹלָם אֵימָא לָךְ מִשּׁוּם שִׁינּוּי, שִׁינּוּי הָוֵי מוּמָא. וּדְקָא קַשְׁיָא לָךְ: אֲפִילּוּ שְׁתֵּיהֶן גְּדוֹלוֹת שְׁתֵּיהֶן קְטַנּוֹת! הָתָם, אִי מֵחֲמַת בְּרִיּוּתָא יְתֵירָא – תַּרְוַוייהוּ בָּעֵי לְמִיבְרָא, אִי מֵחֲמַת כְּחִישׁוּתָא יְתֵירָא – תַּרְוַוייהוּ בָּעֵי מִיכְחַשׁ.

The Gemara responds: **No, actually I will say to you** that the reason an animal with one big eye and one small eye is considered blemished is **because** of its **deviation,** as **a deviation is** considered **a blemish. And** as for **that which is difficult for you,** that if it is due to an anomalous appearance then **even** if **both are big** or **both are small** it should be considered a blemish, **there** it is not considered a deviation. This is because a particularly healthy animal has large eyes, while a particularly weak animal has small eyes. Therefore, only an animal with one large eye and with one small eye is considered to be blemished, as **if** the large eye **is due to extreme health both should have been healthy,** and **if** the small eye **is due to extreme weakness**[B] **both should have been weak.**

הַהִיא גִּיּוֹרְתָּא דַּהֲוּו מָסְרִין לָהּ אַחֵי חֵיוָתָא לְפַטּוּמָהּ. אֲתַאי לְקַמֵּיהּ דְּרָבָא, אֲמַר לָהּ: לֵית דְּחָשׁ לָהּ לְהָא דְּרַבִּי יְהוּדָה, דְּאָמַר: שׁוּתָּפוּת גּוֹי חַייֶבֶת בִּבְכוֹרָה.

§ In connection with the dispute between Rabbi Yehuda and the Rabbis whether an animal owned in partnership with a gentile has firstborn status, the Gemara relates the following incident: There was **a certain female convert**[B] **whose** gentile **brothers would give her animals to fatten** and would then divide the profits with her. **She came before Rava** to ask whether firstborn status applies to the firstborn of these animals. Rava **said to her: There is no one who is concerned with this** ruling **of Rabbi Yehuda, who says** an animal owned in **partnership** with **a gentile is obligated,** i.e., subject to counting its first offspring **a firstborn.**

רַב מָרִי בַּר רָחֵל הָוְיָא לֵיהּ הַהִיא חֵיוָתָא, הָוָה מַקְנֵה לְאוּדְנַיְיהוּ לְגוֹי, וְאָסַר לְהוּ בְּגִיזָּה וַעֲבוֹדָה, וְיָהֵיב לְהוּ לְכֹהֲנִים, וּכְלַאי חֵיוָתָא דְּרַב מָרִי בַּר רָחֵל.

The Gemara relates another incident: **Rav Mari bar Raḥel**[P] **had a certain** flock of **animals. He would transfer ownership of the ears**[H] **of** the firstborn fetuses **to a gentile** in order to exempt them from the obligations of firstborn status. **But** nevertheless he **prohibited them from** being **sheared and** used for **labor, and gave them to the priests,** *halakhot* that apply to a standard firstborn animal. **And** ultimately, **the animals of Rav Mari bar Raḥel died.**

NOTES

An animal that has a limb that is too large [*sarua*] – שָׂרוּעַ: The Sages had a tradition that the word *sarua* in the Torah (see Leviticus 22:23) refers to an animal whose thigh was dislocated, and that is how its leg became longer than usual (see 40a and *Torat Kohanim* on the verse). Rashi in a number of locations explains that it refers to any case where one of the limbs is larger than the other.

HALAKHA

Apply to a person if both of his eyes are large or both of them are small – אָדָם עֵינָיו שְׁתֵּיהֶן גְּדוֹלוֹת שְׁתֵּיהֶן קְטַנּוֹת: A priest whose eyes are as large as those of a calf or as small as those of a goose is considered to be blemished and is disqualified for Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:6).

He would transfer ownership of the ears, etc. – הָוָה מַקְנֶה לְאוּדְנַיְיהוּ וכו׳: In times where there is no Temple, it is a mitzva for a Jew to partner with a gentile in order to exempt his firstborn animals from the obligations of firstborn status. Although the Jewish partner abrogates its sanctity in the process, this is preferable as it will prevent any mishaps of others deriving benefit from shearing it or performing labor with it. If the gentile acquires a portion of the fetus itself the transaction is not valid, as it is deemed an entity that has not yet come into the world. Therefore, the Jew should instead transfer ownership of a portion of the mother to the gentile (*Shulḥan Arukh*, *Yoreh De'a* 320:6, and see the comment of Rema and *Shakh* there).

BACKGROUND

Due to extreme weakness – מֵחֲמַת כְּחִישׁוּתָא: The eyes of a weakened animal will appear smaller than those of a healthy animal. In certain illnesses the eyes may appear sunken in as a result of dehydration, and in other illnesses the fat behind the eye socket may contract and cause the eye to appear small because it rests deeper in the socket.

There was a certain female convert – הַהִיא גִּיּוֹרְתָּא: Conversion to Judaism was not a widespread phenomenon in Babylonia, and it appears the Persian monarchy also did not look kindly upon conversion to Judaism. Nevertheless, during the rule of King Shapur II, which was the time in which the *amora* Rava lived, there appear to have been more instances of conversion to Judaism than in other periods, with most of them, including the incident cited in the Gemara here, occurring in Meḥoza, where Rava lived. It is possible that the reason for the larger percentage of conversions at that time was due to the favorable relations that existed between King Shapur II and the Jewish community in Babylonia.

PERSONALITIES

Rav Mari bar Raḥel – רַב מָרִי בַּר רָחֵל: Rav Mari bar Raḥel was a fourth-generation Babylonian *amora*. It appears he was the son of a gentile named Issur, who married or kidnapped the daughter of the great *amora* Shmuel. Issur later converted and became a widely respected figure in the Jewish community. Since he converted during the period that Rav Mari's mother was expecting, he was not considered to be Rav Mari's father halakhically, as the status of the father is determined at the time of conception and a gentile father is not deemed the halakhic father to a Jewish baby. Therefore, Rav Mari is referred to by the name of his esteemed mother, Raḥel, instead. Rav Mari was a Torah scholar and pious in all of his actions.

Rav Mari taught Torah and maintained close personal and business ties with Rava, who prepared him to serve as one of the spiritual leaders of Babylonia. Rav Mari had two sons, Mar Zutra and Rav Adda Saba, both of whom were prominent Torah scholars. Interestingly, many scholars, and even the Talmud itself, are uncertain whether there was one person with the name Rav Mari bar Raḥel or two people with the same name.

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וְכִי מֵאַחַר דְּאָסַר לְהוּ בְּגִיזָּה וַעֲבוֹדָה, וְיָהֵיב לְהוּ לְכֹהֲנִים, אַמַּאי מַקְנָה לְהוּ לְאוּדְנֵיהוּ לְגוֹי? דִּלְמָא אָתֵי בְּהוּ לִידֵי תַּקָּלָה. אִי הָכִי, מַאי טַעֲמָא כְּלוּ חֵיוָתָא דְּרַב מָרִי? מִשּׁוּם דְּמַפְקַע לְהוּ מִקְדּוּשָׁתַיְיהוּ.

The Gemara asks: **But since he prohibited them from** being **sheared and** used for **labor and** also **gave them to the priests, why did he** initially **transfer ownership of their ears to the gentile,** abrogating their firstborn status? The Gemara answers that he did so **lest** the priests **come to** experience **a mishap with them,** improperly shearing them or using them for labor. The Gemara asks: **If so, what is the reason** that **the animals of Rav Mari died** as a punishment? The Gemara answers: It was **because he abrogated their sanctity**[N] by selling their ears.

וְהָאָמַר רַב יְהוּדָה: מוּתָּר לְאָדָם לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא לָאֲוִיר הָעוֹלָם! הָתָם, מִקְדּוּשַׁת מִזְבֵּחַ קָא מַפְקַע לֵיהּ, מִקְדּוּשַׁת כֹּהֵן לָא מַפְקַע לֵיהּ; הָכָא – אֲפִילּוּ מִקְדּוּשַׁת כֹּהֵן קָא מַפְקַע לֵיהּ.

The Gemara asks: **But doesn't Rav Yehuda say it is permitted for a person to inflict a blemish on a firstborn** animal fetus **before it emerges**[N] **into the air of the world?**[HB] Here, too, Rav Mari abrogated his firstborn animals' sanctity by selling their ears before their birth. The Gemara answers: **There,** when one inflicts a blemish on a firstborn animal, **he abrogates** the animal's **sanctity of the altar,** as it is no longer fit for an offering, **but does not abrogate** its **sanctity of the priest,** as it is still given to the priest. **Here,** by contrast, when Rav Mari sold his animals' ears to a gentile, **he abrogated even** their **sanctity of the priest,** as the partnership exempts the animals from the obligations of firstborn status entirely.

וְאִיבָּעֵית אֵימָא: רַב מָרִי בַּר רָחֵל יָדַע לְאַקְנוּיֵי קִנְיָן גָּמוּר, וְחָזֵי לֵיהּ אִינִישׁ אַחֲרִינָא וְאָזִיל וְעָבֵיד, וְסָבַר: רַב מָרִי מִילְּתָא הוּא דַּעֲבַד, וְאָתֵי בָּהּ לִידֵי תַּקָּלָה.

And if you wish, say instead that the reason the animals of **Rav Mari bar Raḥel** died is that he himself **knew** that is was necessary **to transfer** ownership of the ears of the fetus to the gentile through **a complete transaction. And another person would see him** transferring ownership of the ears to a gentile **and would go and do** it himself but not perform a complete transaction, **and would think** that **Rav Mari performed the** same **matter** in abrogating its firstborn status, **and would come to** experience **a mishap with** his animal by not treating it with the sanctity of firstborn status. Due to this concern, Rav Mari should not have transferred ownership of the ears to a gentile, and consequently his animals died.

מתני׳ כֹּהֲנִים וּלְוִיִּם – פְּטוּרִין, מִקַּל וָחוֹמֶר: אִם פָּטְרוּ אֶת שֶׁל יִשְׂרָאֵל בְּמִדְבָּר – דִּין הוּא שֶׁיִּפְטְרוּ אֶת שֶׁל עַצְמָן.

MISHNA **Priests and Levites**[H] **are exempt** from the obligation to redeem a firstborn donkey; this is derived **from an *a fortiori*** inference: In the wilderness the firstborn were redeemed in exchange for the Levites, as it is stated: "Take the Levites in exchange for all the firstborn among the children of Israel and the animal of the Levites in exchange for their animals" (Numbers 3:45). **If** the priests and Levites **rendered exempt** the firstborn children and donkeys **of the Israelites in the wilderness** from being counted firstborns, **it is** only **logical that** the priests and the Levites **should render** the firstborn of **their own** donkeys **exempt** from being counted firstborns.

Perek **I**
Daf **4** Amud **a**

גמ׳ אִינְהוּ פָּטְרִי? אָדָם – אָדָם פָּטַר, בְּהֵמָה – בְּהֵמָה פָּטְרָה, דִּכְתִיב: "קַח אֶת הַלְוִיִּם תַּחַת בְּכוֹר בִּבְנֵי יִשְׂרָאֵל וְאֶת בְּהֵמַת הַלְוִיִּם תַּחַת בְּהֶמְתָּם"!

GEMARA In stating: If the priests and Levites rendered exempt the firstborn children and donkeys of the Israelites in the wilderness from being counted firstborns, the mishna indicates that the priests and Levites themselves rendered the animals exempt. The Gemara therefore asks: **Did they render** the firstborn children and donkeys **exempt?** With regard to **a person,** i.e., the Israelite firstborn, the **person,** i.e., the priests and Levites, **rendered** them **exempt.** But with regard to **an animal,** i.e., the firstborn donkeys of the Israelites, the **animal,** i.e., the sheep of the priests and Levites, **rendered** them **exempt, as it is written: "Take the Levites in exchange for all the firstborn among the children of Israel, and the animal of the Levites in exchange for their animals"** (Numbers 3:45).

NOTES

Because he abrogated their sanctity – מִשּׁוּם דְּמַפְקַע לְהוּ מִקְדּוּשָׁתַיְיהוּ: This is understandable according to the opinion that the mishna prohibits selling a fetus that belongs to a gentile for this reason (see 2a). According to this opinion, perhaps the additional explanation given, according to which Rav Mari did act appropriately, follows the opinion that the prohibition in the mishna is due to the concern that forbidden labor will be performed on Shabbat. See also *Tosafot*, citing Rabbeinu Tam, who explain that the problem with Rav Mari's actions was that his method of abrogating the sanctity of the firstborn from the fetus was performed by transferring a part of the fetus itself. If he had sold the ear of the mother instead, he would not have been punished for it.

It is permitted for a person to inflict a blemish on a firstborn fetus before it emerges – מוּתָּר לְאָדָם לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא: The reason for this is so that the priest can eat it immediately after its birth, as while it is still complete and has sanctity of the altar, it is forbidden for the priest to consume it. Since an animal is not sanctified with firstborn status until it is born, this act is not included in the prohibition against inflicting a blemish on an offering.

HALAKHA

It is permitted for a person to inflict a blemish on a firstborn fetus before it emerges into the air of the world – מוּתָּר לְאָדָם לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא לָאֲוִיר הָעוֹלָם: It is permitted to inflict a blemish on a firstborn animal before it leaves its mother's womb, because in any event it will ultimately be permitted for consumption once it has developed a blemish, in accordance with the ruling of Rav Yehuda. During the time when the Temple was standing, this was forbidden (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:14; *Shulḥan Arukh*, *Yoreh De'a* 313:7).

Priests and Levites – כֹּהֲנִים וּלְוִיִּם: The mitzva to redeem a firstborn donkey does not apply to a donkey that is owned by a priest or a Levite (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:14).

BACKGROUND

Blemish on a firstborn fetus before it emerges into the air of the world – מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא לָאֲוִיר הָעוֹלָם: When the birthing process for an animal commences and the mother's cervix opens, one can easily reach a hand into the womb and inflict a blemish on the animal's ear or lip (see 35a).

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אֲמַר אַבַּיֵי, הָכִי קָאָמַר: כֹּהֲנִים וּלְוִיִּם פְּטוּרִין בְּהֶמְתָּם מִקַּל וָחוֹמֶר, אִם הִפְקִיעָה בְּהֶמְתָּם שֶׁל לְוִיִּם בְּהֵמָה שֶׁל יִשְׂרָאֵל בַּמִּדְבָּר – דִּין הוּא שֶׁתַּפְקִיעַ אֶת שֶׁל עַצְמָן.

The Gemara answers: **Abaye said this** is what the mishna **is saying:** The firstborn **animals of priests and Levites are exempt** from firstborn status, and that is derived **from an *a fortiori*** inference: **If the animals of the Levites,** i.e., the sheep of the priests and Levites, **rendered** the firstborn status of **the animals of the Israelites in the wilderness abrogated, it is** only **logical that** the sheep of the priests and Levites **should render** the firstborn status of the priests' and Levites' **own** firstborn donkeys **abrogated.**

אֲמַר לֵיהּ רָבָא: וְהָא פָּטְרוּ אִינְהוּ קָתָנֵי!

Rava said to him: How can you interpret the *a fortiori* inference in the mishna as referring to the animals of the priests and Levites? **But doesn't** it **teach: They,** i.e., the priests and Levites, **rendered** the firstborn children and donkeys of the Israelites **exempt?** The reference is clearly to the priests and Levites themselves, not their animals.

וְעוֹד, אִם אִיתָא – אֲפִילּוּ מִבְּכוֹר בְּהֵמָה טְהוֹרָה נִפְטְרוּ! אַלְּמָה תְּנַן: לֹא נִפְטְרוּ מִבְּכוֹר בְּהֵמָה טְהוֹרָה, אֶלָּא מִפִּדְיוֹן הַבֵּן וּפֶטֶר חֲמוֹר?

Furthermore, if it is so that their animals are exempt due to the *a fortiori* inference, then the priests and Levites **should be exempt even from** the *halakhot* pertaining to a male **firstborn of a kosher animal,** as their firstborn kosher animals rendered the firstborn kosher animals of the Israelites exempt from firstborn status. **Why did we learn** in the mishna (13a): The priests and Levites **were not exempted from** the mitzva of the male **firstborn of a kosher animal;**[H] **rather,** they were exempted only **from redemption of the** firstborn **son and the firstborn donkey?**

אֶלָּא אֲמַר רָבָא, הָכִי קָתָנֵי: כֹּהֲנִים וּלְוִיִּם פָּטְרוּ הֵן עַצְמָן מִקַּל וָחוֹמֶר, אִם הִפְקִיעָה קְדוּשָּׁתָן שֶׁל לְוִיִּם קְדוּשַּׁת שֶׁל יִשְׂרָאֵל בַּמִּדְבָּר, לֹא יַפְקִיעַ אֶת שֶׁל עַצְמָן?

Rather, Rava said this is what the mishna **is teaching: Priests and Levites rendered themselves exempt,**[H] and that is derived **from an *a fortiori*** inference: **If the sanctity of the Levites abrogated the sanctity of the** firstborn of the **Israelites in the wilderness, should it not abrogate** the sanctity **of** the firstborn Levites **themselves?**

אַשְׁכַּחַן אָדָם, בְּהֵמָה טְמֵאָה מְנָלַן? אָמַר קְרָא: ״אַךְ פָּדֹה תִפְדֶּה אֵת בְּכוֹר הָאָדָם וְאֵת בְּכוֹר הַבְּהֵמָה הַטְּמֵאָה תִּפְדֶּה״, כָּל שֶׁיֵּשְׁנוֹ בִּבְכוֹר אָדָם – יֶשְׁנוֹ בִּבְכוֹר בְּהֵמָה טְמֵאָה, וְכָל שֶׁאֵינוֹ בִּבְכוֹר אָדָם – אֵינוֹ בִּבְכוֹר בְּהֵמָה טְמֵאָה.

The Gemara asks: **We have found** a source for the *halakha* that the Levites' **personal** status as firstborns is abrogated; **from where do we** derive that their **non-kosher animals,** i.e., donkeys, do not have the status of firstborns? The Gemara answers that **the verse states: "Yet you shall redeem the firstborn of man, and the firstborn of non-kosher animals you shall redeem"** (Numbers 18:15). The status of the human firstborn is juxtaposed with that of a non-kosher animal, from which the following principle is derived: **Anything that applies to** a woman's **firstborn son applies to the firstborn of a non-kosher animal, and anything that does not apply to** a woman's **firstborn son does not apply to a non-kosher animal.** Therefore, just as firstborn status does not apply to Levites, it does not apply to their donkeys, and they do not need to be redeemed.

אֲמַר לֵיהּ רַב סָפְרָא לְאַבַּיֵי: לְדִידָךְ דְּאָמְרַתְּ בְּהֶמְתָּם, בֶּן לֵוִי דַּהֲוָה לֵיהּ שֶׂה דְּאִפְקַע – לִיפְקַע, דְּלָא הֲוָה לֵיהּ שֶׂה דְּלִיפְקַע – לָא לִיפְקַע!

Rav Safra said to Abaye: According to your opinion, **that you say the animals of** the Levites did not have firstborn status due to the *a fortiori* inference, then with regard to **a Levite who had a lamb, which abrogated** the sanctity of the firstborn donkeys of the Israelites, **let** the firstborn status of his animals **be abrogated.** But with regard to one **who did not have a lamb that would abrogate** their sanctity, the status of his animals **should not be abrogated.**

בֵּין לְדִידָךְ בֵּין לְרָבָא, בֶּן חֹדֶשׁ דְּאִפְקַע – לִיפְקַע, פָּחוֹת מִבֶּן חֹדֶשׁ דְּלָא אִפְקַע – לָא לִיפְקַע!

Rav Safra asked Abaye an additional question: **According to both you and Rava,** since you agree that the firstborn Levites themselves were exempt from being accorded firstborn status because they rendered the sanctity of the Israelite firstborns abrogated, one should conclude that only a firstborn Levite who was at least one **month old, who abrogated** the sanctity of the Israelite firstborns (see Numbers 3:15), **should** have his own firstborn status **abrogated.** But those firstborn Levites who were **less than** one **month old, who did not abrogate** the sanctity of the Israelite firstborns, **should not** have their own firstborn status **abrogated.**

HALAKHA

The priests and Levites were not exempted from the mitzva of the male firstborn of a kosher animal – לֹא נִפְטְרוּ מִבְּכוֹר בְּהֵמָה טְהוֹרָה: All are obligated in the mitzva of a male firstborn kosher animal, including priests, Levites, and Israelites. An Israelite and a Levite must give their firstborn animal to the priest, while a priest separates his own firstborn animal and sacrifices it as an offering. In times when there is no Temple, the priest waits until the animal develops a blemish, after which he may consume it (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:7; *Shulḥan Arukh*, *Yoreh De'a* 320:1).

Priests and Levites rendered themselves exempt, etc. – כֹּהֲנִים וּלְוִיִּם פָּטְרוּ הֵן עַצְמָן וכו': Priests and Levites are exempt from the redemption of a firstborn son (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:9, and see 12:14; *Shulḥan Arukh*, *Yoreh De'a* 305:18).

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לְוִיָּה לָא תִּיפְקַע! אַלְמָה אָמַר רַב אַדָּא בַּר אַהֲבָה: לְוִיָּה שֶׁיָּלְדָה – בְּנָהּ פָּטוּר מֵחֲמֵשׁ סְלָעִים?

Furthermore, the sanctity of a firstborn son born to **a female Levite** who was married to an Israelite **should not be abrogated,** as the women were not included among the Levites who were exchanged for the Israelite firstborn. **Why,** then, **does Rav Adda bar Ahava say:** With regard to **a female Levite who gave birth, her** firstborn **son**[H] **is exempt from** the obligation of giving **five *sela*** coins to the priest to be redeemed?

הָא לָא קַשְׁיָא, כִּדְמָר בְּרֵיהּ דְּרַב יוֹסֵף מִשְּׁמֵיהּ דְּרָבָא, דְּאָמַר: ״פֶּטֶר רֶחֶם״ – בְּפֶטֶר רֶחֶם תָּלָה רַחֲמָנָא.

The Gemara answers the last question: **That** is **not difficult,**[N] **as** it is in accordance with the statement **of Mar, son of Rav Yosef, in the name of Rava, who says:** The fact that the Torah states with regard to the sanctity of the firstborn: **“Firstborn of the womb”** (Exodus 13:12), indicates that **the Merciful One renders** the obligations of firstborn status **dependent on** being **the firstborn of the womb,** i.e., of the mother. Therefore, the mother’s status as a Levite is sufficient to exempt the child from firstborn status.

וְאַהֲרֹן שֶׁלֹּא הָיָה בְּאוֹתוֹ מִנְיָן – לָא לִיפְקַע! דְּתַנְיָא: לָמָּה נָקוּד עַל ״אַהֲרֹן״ שֶׁבְּחוּמַּשׁ הַפְּקוּדִים – שֶׁלֹּא הָיָה בְּאוֹתוֹ מִנְיָן!

Rav Safra again challenged the opinions of Abaye and Rava: **And** with regard to **Aaron, who was not** included **in that count** of the Levites when they were compared to the number of Israelite firstborns and redeemed from their sanctity as firstborns, the status of his animals **should not be abrogated. As it is taught** in a *baraita*: **Why** do **dots** appear **over** the word **“Aaron”** in the verse **in the book of Numbers:** “All that were numbered of the Levites, whom Moses and Aaron numbered” (Numbers 3:39)? It is in order to demonstrate **that he was not** included **in that count** of the Levites.

אָמַר קְרָא: ״הַלְוִיִּם״ – הוּקְּשׁוּ כָּל הַלְוִיִּם זֶה לָזֶה.

The Gemara answers that **the verse states: “The Levites”** (Numbers 3:45), to teach that **all of the Levites were juxtaposed with each other.** Therefore, the *halakhot* of abrogation of sanctity apply even to a Levite who was not counted.

כֹּהֲנִים מְנָלַן? כִּדְרַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי, דְּאָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: בְּעֶשְׂרִים וְאַרְבָּעָה מְקוֹמוֹת נִקְרְאוּ כֹּהֲנִים ״לְוִיִּם״, וְזֶה אֶחָד מֵהֶן – ״וְהַכֹּהֲנִים הַלְוִיִּם בְּנֵי צָדוֹק״.

The Gemara asks: **From where do we** derive that **priests,** including Aaron, were also subject to that *halakha*? The Gemara answers: It is **in accordance with** the statement **of Rabbi Yehoshua ben Levi, as Rabbi Yehoshua ben Levi says: In twenty-four places** in the Bible **the priests are called Levites, and this is one of them: “But the priests the Levites, the sons of Zadok”** (Ezekiel 44:15). It is derived from this verse that priests are included in the category of Levites even where they are not mentioned explicitly.

Perek **I**
Daf **4** Amud **b**

וּלְדוֹרוֹת מְנָלַן? אָמַר קְרָא: ״וְהָיוּ לִי הַלְוִיִּם״, ״וְהָיוּ״ – בַּהֲוָיֵיתָן יְהוּ.

The Gemara asks: **And from where do we** derive that the priests and Levites are exempt from their offspring being counted a firstborn **for** all **generations?** The Gemara answers that **the verse states: “And the Levites shall be Mine”** (Numbers 3:12). The term **“shall be”** indicates that **they shall be,** i.e., shall remain, **in their** current **state** of sanctity. Just as firstborn status did not apply to the priests or the Levites in the wilderness, it does not apply to priests or Levites in subsequent generations.

וּמִמַּאי דִּבְשֶׂה? אָמַר רַב חִסְדָּא: נֶאֱמַר כֶּסֶף לְדוֹרוֹת, וְנֶאֱמַר שֶׂה לְדוֹרוֹת;

§ Rav Safra (4a) referred to the fact that the sanctity of the firstborn donkeys of the Israelites was abrogated by the lambs of the Levites. The Gemara asks: **From where** is it derived **that** this abrogation was accomplished **with a lamb? Rav Ḥisda says:** The word **“silver” is stated** with regard to the redemption of a woman’s firstborn son **for** later **generations** in the verse: “And their redemption money… shall be, according to your valuation, five shekels of silver” (Numbers 18:16). **And** in addition, the word **“lamb” is stated** with regard to the redemption of a firstborn donkey **for** later **generations** in the verse: “And every firstborn donkey you shall redeem with a lamb” (Exodus 13:13).

HALAKHA

Her firstborn son – בְּנָהּ: An Israelite who is the firstborn son of a female Levite or of the daughter of a priest, and whose father is an Israelite, is exempt from being counted a firstborn, as firstborn status is determined based on the mother rather than the father, as it is stated: “Firstborn of the womb.” This ruling is in accordance with Mar, son of Rav Yosef, citing Rav (Rambam *Sefer Zera’im*, *Hilkhot Bikkurim* 11:10; *Shulḥan Arukh*, *Yoreh De’a* 305:18).

NOTES

That is not difficult – הָא לָא קַשְׁיָא: Rashi explains, according to the interpretation of the Maharit Algazi (8:65), that the Gemara here is answering the last question as follows: A female Levite is exempt from her offspring’s being counted a firstborn based on the phrase “firstborn of the womb,” which indicates that it is determined by the womb, which belongs to the female. The previous difficulty remains: Since the exemption of a firstborn male Levite stems from the abrogation of the Israelite firstborn in the wilderness, why would a Levite less than one month old be exempt if Levites that age did not abrogate Israelite firstborns in the wilderness? *Tosafot*, by contrast, maintain that the Gemara’s answer here resolves both difficulties: Since the firstborn status depends on being the firstborn of the womb, any firstborn of a female Levite is exempt from the obligations of firstborn status. Consequently, there is no difference whether the Levite was more or less than one month old at the time of abrogation. This appears to be the explanation of Rabbeinu Gershom Meor HaGola as well.

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מַה כֶּסֶף הָאָמוּר לְדוֹרוֹת – בּוֹ פָּדוּ לְדוֹרוֹת, בּוֹ פָּדוּ לְאוֹתָהּ שָׁעָה, אַף שֶׁה הָאָמוּר לְדוֹרוֹת – בּוֹ פָּדוּ לְדוֹרוֹת, בּוֹ פָּדוּ בְּאוֹתָהּ שָׁעָה.

Therefore, one can derive that **just as** concerning **silver, which was mentioned with regard to** later **generations,** the Israelites **redeemed with it in** later **generations** and **they** also **redeemed with it at that time,** as the surplus firstborn in the wilderness were redeemed with five shekels (see Numbers 3:47), **so too** concerning the **lamb, which was mentioned with regard to** later **generations, they redeemed with it in** later **generations,** and **they redeemed with it at that time.**

מַה לְּכֶסֶף – שֶׁכֵּן פּוֹדִין בּוֹ הֶקְדֵּשׁוֹת וּמַעֲשֵׂר שֵׁנִי!

The Gemara rejects the comparison: **What** is notable **about silver?** It is notable **in that** it is also used for redemption in other cases, as **one can redeem consecrated property and second-tithe** produce **with it,**[N] which is not the *halakha* with regard to lambs.

אֶלָּא אָמַר קְרָא: ״אַךְ פָּדֹה תִפְדֶּה אֵת בְּכוֹר הָאָדָם וְאֵת בְּכוֹר הַבְּהֵמָה הַטְּמֵאָה תִּפְדֶּה״, מַה בְּכוֹר אָדָם לֹא חָלַקְתָּ בֵּין לְדוֹרוֹת בֵּין לְאוֹתָהּ שָׁעָה – בְּכֶסֶף, אַף בְּהֵמָה טְמֵאָה לֹא תַּחֲלוֹק בּוֹ בֵּין לְדוֹרוֹת בֵּין לְאוֹתָהּ שָׁעָה – בְּשֶׂה.

Rather, it can be derived from the fact that **the verse states: "Yet you shall redeem the firstborn of man, and the firstborn of non-kosher animals you shall redeem"** (Numbers 18:15). The juxtaposition of the two cases demonstrates that **just as** with regard to **a** woman's **firstborn son you have not distinguished between** the *halakha* **for** later **generations and** the *halakha* **for that time,** as the redemption is performed **with silver** in both cases, **so too,** with regard to the redemption of **a non-kosher animal, you should not distinguish between** the *halakha* **for** later **generations and for that time,** as it must be performed **with a lamb** in both situations.

אָמַר רַבִּי חֲנִינָא: שֶׂה אֶחָד שֶׁל בֶּן לֵוִי פָּטַר כַּמָּה פִּטְרֵי חֲמוֹרִים מִיִּשְׂרָאֵל. אָמַר אַבָּיֵי: תֵּדַע, שֶׁהֲרֵי מָנָה הַכָּתוּב עוֹדְפִים בָּאָדָם, וְלֹא מָנָה עוֹדְפִין בַּבְּהֵמָה.

§ The Gemara resumes its discussion of the procedure for the redemption of the firstborn donkeys in the wilderness: **Rabbi Ḥanina says** that **one lamb of a Levite** in the wilderness **rendered several firstborn donkeys of the Israelites exempt** from the obligations of firstborn status. **Abaye says: Know** that this is so, **as the verse enumerates the surplus of** firstborn **humans** when it says that there were 273 more firstborn Israelites than Levites who needed to be redeemed with silver (see Numbers 3:46); **but** the verse **does not enumerate** any **surplus of** Israelite **animals.**

מִמַּאי? דִּילְמָא לָא הֲווּ נְפִישִׁי לְהוּ בְּהֵמוֹת טוּבָא! לָא סָלְקָא דַּעְתָּךְ, דִּכְתִיב: ״וּמִקְנֶה רַב הָיָה לִבְנֵי רְאוּבֵן וְלִבְנֵי גָד״.

The Gemara asks: **From where** is this proven? **Perhaps** the Israelites **did not have many animals,** and their firstborn donkeys did not outnumber the lambs of the Levites. The Gemara answers: Do **not** let this possibility **enter your mind, as it is written: "Now the children of Reuben and the children of Gad had a very great multitude of livestock"** (Numbers 32:1).

דִּילְמָא אֲפִילּוּ הָכִי, פְּשׁוּטִים דִּלְוִיִּם הָווּ קָיְימִי לְבַהֲדֵי בְּכוֹרֵי יִשְׂרָאֵל! אָמַר קְרָא: ״וְאֶת בֶּהֱמַת הַלְוִיִּם תַּחַת בְּהֶמְתָּם״ – בְּהֵמָה אַחַת תַּחַת בְּהֵמוֹת הַרְבֵּה.

The Gemara challenges: **Perhaps even so,** the number of **ordinary** animals **of the Levites** that were not firstborn **corresponded to** the number of **firstborn** animals belonging to **the Israelites.** The Gemara explains that **the verse states:** "Take the Levites in exchange for all the firstborn among the children of Israel, **and the animal of** [***behemat***] **the Levites in exchange for their animals** [***behemtam***]" (Numbers 3:45). The use of the word *behemat* in the singular indicates that the transaction involved **one animal** of the Levites **in exchange for many animals** of the Israelites.

וְאֵימָא בְּהֵמָה רַבָּה! אִם כֵּן, לִיכְתּוֹב קְרָא אוֹ ״בְּהֵמָה תַּחַת בְּהֵמָה״, אוֹ ״בְּהֶמְתָּם תַּחַת בְּהֶמְתָּם״, מַאי ״בֶּהֱמַת...תַּחַת בְּהֶמְתָּם״ – שְׁמַע מִינָּהּ חַד פָּטַר טוּבָא.

The Gemara asks: **And say** the word *behemat* is referring to many animals, as in the phrase: "**And many animals** [***uvhema rabba***]" (Jonah 4:11). The Gemara answers: **If so, let the verse write either:** ***Behema*** of the Levites **in exchange for *behema*, or: *Behemtam* in exchange for *behemtam*. What** is the significance of the phrase "***behemat*** the Levites **in exchange for *behemtam*"? Learn from it** that **one** lamb of a Levite **rendered many** donkeys of Israelites **exempt.**

אָמַר רָבָא, אַף אֲנַן נַמִּי תָּנֵינָא: וּפוֹדֶה בּוֹ פְּעָמִים הַרְבֵּה. וְרַבִּי חֲנִינָא טַעֲמָא דְּמַתְנִיתִין מְפָרֵשׁ, וְהָכִי קָאָמַר: מַאי טַעֲמָא פּוֹדֶה בּוֹ פְּעָמִים הַרְבֵּה – מִשּׁוּם דְּשֶׂה אֶחָד שֶׁל בֶּן לֵוִי פּוֹטֵר כַּמָּה פִּטְרֵי חֲמוֹרִים שֶׁל יִשְׂרָאֵל.

Rava said: We learn in a mishna (9a), **as well,** a support for Rabbi Ḥanina's statement: **And** if the priest returns the lamb to him, he may **redeem** firstborn donkeys **with it many times**[H] if he repurchases the lamb from the priest each time upon redeeming a donkey. **And** actually, **Rabbi Ḥanina is** not offering his own opinion, but is rather **explaining the reasoning of the mishna,**[N] **and this** is what he **is saying: What is the reason** that the owner **may redeem** firstborn donkeys **with** the same lamb **many times?** It is **because one lamb of a Levite renders exempt several firstborn donkeys belonging to an Israelite.**

NOTES

What is notable about silver…as one can redeem consecrated property and second-tithe produce with it – מַה לְּכֶסֶף...פּוֹדִין בּוֹ הֶקְדֵּשׁוֹת וּמַעֲשֵׂר שֵׁנִי: When one redeems a consecrated field he gives money for it (see Leviticus, chapter 27). Likewise, with regard to redeeming second-tithe produce that one cannot transport to Jerusalem, the Torah states: "Then you shall turn it into money" (Deuteronomy 14:25).

And Rabbi Ḥanina is explaining the reasoning of the mishna – וְרַבִּי חֲנִינָא טַעֲמָא דְּמַתְנִיתִין מְפָרֵשׁ: This statement is difficult to understand, as the two cases do not appear to be similar. In the wilderness, one lamb was used to redeem multiple firstborn donkeys simultaneously, which cannot be done in later generations. Instead, the priest must first give the lamb back to the Israelite, and only then redeem additional donkeys. Nevertheless, the principle employed in both cases is similar: The simultaneous redemption of multiple firstborn donkeys in the wilderness illustrates that a firstborn donkey does not possess any sanctity that is then transferred to the lamb, since if that were so the sanctities of multiple donkeys could not be transferred to the lamb simultaneously (see 9a). Rather, only a financial obligation exists to give the lamb to the priest. Therefore, in later generations, the priest gives the lamb back to the Israelite, and it may be used again for redemption.

HALAKHA

And he may redeem firstborn donkeys with it many times – וּפוֹדֶה בּוֹ פְּעָמִים הַרְבֵּה: One lamb can be used to redeem firstborn donkeys on multiple occasions, in accordance with the mishna on 9a (*Be'er HaGola*). In order to do so, the owner redeems a firstborn donkey with a lamb, gives the lamb to the priest, and then reacquires it from the priest. Likewise, if he has a donkey whose status as a firstborn is uncertain, he separates a lamb that remains in his possession, in accordance with the explanation of Rabbeinu Tam (see *Tosafot* here), and he may then redeem a definite firstborn donkey as well. Alternatively, if he has ten donkeys of uncertain status, he may redeem them all simultaneously with one lamb (*Shulḥan Arukh*, *Yoreh De'a* 321:5 in the comment of Rema, and see *Shakh* there).

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NOTES

The sacrificial service was performed by the firstborn – עֲבוֹדָה בַּבְּכוֹרוֹת: Initially, the Torah states: "Sanctify to Me every firstborn" (Exodus 13:2). Subsequently, Aaron and his sons are inaugurated into the priesthood with the establishment of the Tabernacle, as it is written: "And I have taken the Levites from among the children of Israel in exchange for every firstborn who opens the womb among the children of Israel; and the Levites shall be Mine" (Numbers 3:12). The Sages explain that as a consequence of the firstborns having worshipped the Golden Calf, the right to perform the service in the Tabernacle was taken from them and given to the priests (see Jerusalem Talmud, *Megilla* 1:13). A dissenting opinion with regard to this matter is cited in the Gemara (*Zevaḥim* 115b).

אִיתְּמַר, רַבִּי יוֹחָנָן אָמַר: קָדְשׁוּ בְּכוֹרוֹת בַּמִּדְבָּר, וְרֵישׁ לָקִישׁ אָמַר: לֹא קָדְשׁוּ בְּכוֹרוֹת בַּמִּדְבָּר.

§ **It was stated** with regard to the sanctity of the firstborn in the wilderness: **Rabbi Yoḥanan**[P] **says** that both **firstborn** animals and firstborn sons born **in the wilderness were sanctified, and Reish Lakish says:** The **firstborn** that were born **in the wilderness were not sanctified.**

רַבִּי יוֹחָנָן אָמַר קָדְשׁוּ בְּכוֹרוֹת בַּמִּדְבָּר – דְּרַחֲמָנָא אָמַר לִיקַדְּשׁוּ, דִּכְתִיב: ״קַדֶּשׁ לִי כָּל בְּכוֹר״.

The Gemara explains the reason for each opinion: **Rabbi Yoḥanan says** that the **firstborn** that were born **in the wilderness were sanctified, since the Merciful One states they should be sanctified, as it is written** prior to the Jews leaving Egypt: **"Sanctify to Me all the firstborn"** (Exodus 13:2).

וְרֵישׁ לָקִישׁ אָמַר לֹא קָדְשׁוּ בְּכוֹרוֹת בַּמִּדְבָּר – מִדִּכְתִיב: ״וְהָיָה כִּי יְבִיאֲךָ״, וּכְתִיב בַּתְרֵיהּ: ״וְהַעֲבַרְתָּ״, מִכְּלָל דְּמֵעִיקָּרָא לָא קְדוּשׁ.

And Reish Lakish says: Although the firstborn in Egypt were sanctified, **the firstborn** that were born **in the wilderness were not sanctified, as it is written: "And it shall be when** the Lord **shall bring you** into the land of the Canaanites" (Exodus 13:11), **and it is written afterward: "And you shall set apart** all firstborn of the womb to the Lord" (Exodus 13:12). **By inference,** it can be derived **that initially,** before the Jewish people entered Eretz Yisrael, those that were born in the wilderness **were not sanctified.**

אֵיתִיבֵיהּ רַבִּי יוֹחָנָן לְרֵישׁ לָקִישׁ: עַד שֶׁלֹּא הוּקַם הַמִּשְׁכָּן – הָיוּ בָּמוֹת מוּתָּרוֹת, וַעֲבוֹדָה בַּבְּכוֹרוֹת! אֲמַר לֵיהּ: בְּאוֹתָן שֶׁיָּצְאוּ מִמִּצְרַיִם.

Rabbi Yoḥanan raised an objection to the opinion of **Reish Lakish** from a mishna (*Zevaḥim* 112b): **Until the Tabernacle was established,** private **altars were permitted and** the sacrificial **service** was performed **by the firstborn.**[N] Clearly, then, the firstborn in the wilderness were sanctified. Reish Lakish **said to him:** That mishna is referring **to those** firstborn **who left Egypt,** who performed the sacrificial service, and not to the ones born in the wilderness.

הָכִי נַמִי מִסְתַּבְּרָא, דְּאִי לָא תֵּימָא הָכִי, בֶּן שָׁנָה בַּר מֵיעֲבַד עֲבוֹדָה הוּא?

The Gemara comments: **This too stands to reason, as if you do not say so, is** an infant **in its** first **year capable of performing the** sacrificial **service?** Since the Tabernacle was established only a year after the Jewish people left Egypt, clearly the firstborn who performed the sacrificial service at that time were born in Egypt.

וּדְקָאָרֵי לָהּ מַאי קָאָרֵי לָהּ?

The Gemara asks: **And he who asked it, why did he ask it?** Isn't it obvious that the firstborn born in Egypt performed the sacrificial service in the first years of the Tabernacle?

הָכִי קָא קַשְׁיָא לֵיהּ: אִי אָמְרַתְּ בִּשְׁלָמָא דְּלָא פָּסֵיק קְדוּשָּׁתַיְיהוּ – הָנָךְ דְּמֵעִיקָּרָא נַמִי לָא פָּקְעָא קְדוּשָּׁתַיְיהוּ. אֶלָּא אִי אָמְרַתְּ דִּפְסַק קְדוּשָּׁתַיְיהוּ – הָנָךְ דְּמֵעִיקָּרָא נַמִי פָּקְעָא לֵיהּ קְדוּשָּׁתַיְיהוּ!

The Gemara answers: **This was his difficulty: Granted, if you say that the sanctity of** the firstborn **did not cease** from the time that the mitzva of: "Sanctify to Me all the firstborn" (Exodus 13:2), was given in Egypt, and those born in the wilderness were also sanctified, then with regard to **these** firstborn **who** were **originally** in Egypt, **their sanctity also did not lapse.** Therefore, they could perform the sacrificial service in the first years of the Tabernacle. **But if you say that the sanctity of** the firstborn **ceased** and the firstborn born in the wilderness were not sanctified, then with regard to **these** firstborn **that** were **originally** born in Egypt, **their sanctity also lapsed.**

וְאִידָךְ? דִּקְדוּשׁ – קְדוּשׁ, דְּלָא קְדוּשׁ – לָא קְדוּשׁ.

And the other *amora*, Reish Lakish, responded: No proof may be derived from here, as those **who were sanctified** in Egypt **were sanctified** and did not then lose their sanctity in the wilderness, while those **who were not sanctified** in Egypt **were not sanctified** in the wilderness.

PERSONALITIES

Rabbi Yoḥanan – רַבִּי יוֹחָנָן: Rabbi Yoḥanan bar Nappaḥa was one of the greatest *amora'im*; his statements are fundamental components of both the Babylonian Talmud and the Jerusalem Talmud. Rabbi Yoḥanan was orphaned at a young age, and although his family apparently owned considerable property, he devoted virtually all his resources to the study of Torah, and he eventually became impoverished. In his youth, Rabbi Yoḥanan had the privilege of studying under Rabbi Yehuda HaNasi, the redactor of the Mishna, but most of his Torah study was under Rabbi Yehuda HaNasi's students: Ḥizkiyya ben Ḥiyya, Rabbi Oshaya, Rabbi Ḥanina, and Rabbi Yannai. In time, Rabbi Yoḥanan became the head of the yeshiva in Tiberias, at which point his fame and influence increased greatly. For a long time he was the leading rabbinic scholar in the entire Jewish world, not only in Eretz Yisrael but in Babylonia as well. In fact, many of the Babylonian Sages, who greatly respected him, emigrated to Eretz Yisrael to become his students.

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אֵיתִיבֵיהּ: אוֹתוֹ הַיּוֹם שֶׁהוּקַם הַמִּשְׁכָּן, קָרְבוּ בּוֹ לָהֶם בְּיִשְׂרָאֵל נְדָרִים וּנְדָבוֹת, חַטָּאוֹת וַאֲשָׁמוֹת, בְּכוֹרוֹת וּמַעֲשְׂרוֹת! הָכִי נַמִּי – בְּאוֹתָן שֶׁיָּצְאוּ מִמִּצְרַיִם. וּמֵימָּה, אוֹתוֹ הַיּוֹם הוּא דְּקָרוּב, מִיכָּן וָאֵילָךְ לָא קָרוּב!

Rabbi Yoḥanan **raised an objection to** the opinion of Reish Lakish from a *baraita*: On **the same day that the Tabernacle was established,** many types of offerings **were sacrificed by the Jewish people,** including **vow** offerings **and gift** offerings, **sin offerings and guilt offerings,** kosher **firstborn** animal offerings **and** animal **tithe** offerings. If firstborn animal offerings were sacrificed in the wilderness, then evidently the firstborn animals were sanctified in the wilderness. Reish Lakish answered him: This is referring **also to those** firstborn animals **that left Egypt** and were already sanctified there. The Gemara comments: **And** it may be understood **from** the *baraita* itself that the opinion of Reish Lakish is correct, as one can infer from it: **That day is when** the firstborn **were sacrificed,** but **beyond that they were not sacrificed.**

אִיכָּא דְּאָמְרִי אֵיתִיבֵיהּ רֵישׁ לָקִישׁ לְרַבִּי יוֹחָנָן: אוֹתוֹ הַיּוֹם שֶׁהוּקַם הַמִּשְׁכָּן, קָרְבוּ לָהֶם יִשְׂרָאֵל נְדָרִים וּנְדָבוֹת, חַטָּאוֹת וַאֲשָׁמוֹת, בְּכוֹרוֹת וּמַעֲשְׂרוֹת. אוֹתוֹ הַיּוֹם – אִין, מִיכָּן וָאֵילָךְ – לָא! אֵימָא: מֵאוֹתוֹ הַיּוֹם וָאֵילָךְ.

There are those **who say** the discussion proceeded as follows: **Reish Lakish raised an objection to** the opinion of **Rabbi Yoḥanan:** On **the same day that the Tabernacle was established,** many types of offerings **were sacrificed by the Jewish people,** including **vow** offerings **and gift** offerings, **sin offerings and guilt offerings,** kosher **firstborn** animal offerings **and** animal **tithe** offerings. It may be inferred that on **that day, yes,** the firstborn animals were sacrificed, but **beyond that** the firstborn animals were **not** sacrificed, indicating that the male firstborn animals in the wilderness were not sanctified. The Gemara responds: One can **say** that the *baraita* means that **from that day onward,** all of those offerings were sacrificed.

וּמַאי קָמַשְׁמַע לָן? מֵאוֹתוֹ הַיּוֹם – אִין, מֵעִיקָּרָא – לָא; אַלְמָא – חוֹבוֹת בַּבָּמָה לָא קָרוּב.

The Gemara asks: **And what,** then, **is** the *baraita* **teaching us?** The Gemara answers: It is teaching that **from that day** onward, **yes,** the Jewish people brought those offerings, but **initially,** prior to the establishment of the Tabernacle, they were **not** brought. **Evidently, obligatory** offerings such as these **were not sacrificed on** a private **altar;** only voluntary offerings were sacrificed on such altars.

תָּא שְׁמַע: נִמְצֵאתָ אַתָּה אוֹמֵר, בִּשְׁלֹשָׁה מְקוֹמוֹת קָדְשׁוּ בְּכוֹרוֹת לְיִשְׂרָאֵל: בְּמִצְרַיִם, וּבַמִּדְבָּר, וּבִכְנִיסָתָן יִשְׂרָאֵל לָאָרֶץ; בְּמִצְרַיִם מַהוּ אוֹמֵר – ״קַדֶּשׁ לִי כָל בְּכוֹר״, בַּמִּדְבָּר הוּא אוֹמֵר: ״כִּי לִי כָל בְּכוֹר בִּבְנֵי יִשְׂרָאֵל״, בִּכְנִיסָתָם לָאָרֶץ הוּא אוֹמֵר: ״וְהָיָה כִּי יְבִיאֲךָ...וְהַעֲבַרְתָּ״.

The Gemara suggests: **Come** and **hear** a proof for the opinion of Rabbi Yoḥanan from a *baraita*: **You are found** to be **saying** that **the firstborn of the Jewish people were sanctified in three locations: In Egypt, and in the wilderness, and upon the entry of the Jewish people into Eretz** Yisrael. **In Egypt, what does** the verse **state? "Sanctify to Me all the firstborn"** (Exodus 13:2). **In the wilderness,** the verse **states: "For all the firstborn among the children of Israel are Mine"** (Numbers 8:17). **With regard to their entry into Eretz** Yisrael, the verse **states: "And it shall be when** the Lord **shall bring you** into the land of the Canaanites … **and you shall set apart** all firstborn of the womb to the Lord" (Exodus 13:11–12). This *baraita* indicates that the firstborn born in the wilderness were sanctified.

אָמַר רַב נַחְמָן בַּר יִצְחָק: בִּשְׁלֹשָׁה מְקוֹמוֹת הִוְזְהֲרוּ עַל הַבְּכוֹרוֹת לְיַקְדֵּישׁ, וְלֹא קָדְשׁוּ. וּבְמִצְרַיִם נַמִּי לָא קִדּוּשׁ? הָא קָאָמְרִינַן דְּקִדּוּשׁ! הָכִי אָמַר: מֵהֶן קָדְשׁוּ וּמֵהֶן לֹא קָדְשׁוּ.

The Gemara rejects this proof. **Rav Naḥman bar Yitzḥak said:** The *baraita* means that the Jewish people **were commanded in three locations with regard to the firstborn,** that is, **to sanctify** them, **but they did not sanctify** them in practice. The Gemara asks: **But** according to this, **were they not sanctified in Egypt either? Didn't we say that they were sanctified** even according to Reish Lakish? The Gemara answers: **This** is what the *tanna* **is saying:** They were commanded in three locations to sanctify the firstborn. In some **of those** cases, i.e., in Egypt and in Eretz Yisrael, **they sanctified** them, **and** in some **of them,** i.e., in the wilderness, **they did not sanctify** them.

מַתְקִיף לָהּ רַב פַּפָּא: וּבַמִּדְבָּר לָא קָדְשׁוּ? וְהָכְתִיב: ״פְּקֹד כָּל בְּכֹר זָכָר לִבְנֵי יִשְׂרָאֵל״! אֶלָּא, אִי אִיתְּמַר – הָכִי אִיתְּמַר: רַבִּי יוֹחָנָן אָמַר קָדְשׁוּ וְלֹא פָּסְקוּ, וְרֵישׁ לָקִישׁ אָמַר קָדְשׁוּ

Rav Pappa objects to this: And did they not sanctify them **in the wilderness? But isn't it written: "Count all the firstborn males of the children of Israel** from a month old and upward" (Numbers 3:40), a commandment that was fulfilled (see Numbers 3:42)? The firstborn referred to certainly include those born in the wilderness, as this counting occurred in the second year after the exodus from Egypt. **Rather, if** a dispute between Rabbi Yoḥanan and Reish Lakish **was stated** with regard to this matter, it **was stated like this: Rabbi Yoḥanan says** the firstborn that were born in the wilderness **were sanctified and** their sanctity **did not cease, and Reish Lakish says** they **were sanctified** only until the time of the counting referred to above,

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וּפָסְקוּ.

and then their sanctity **ceased** following the census.

בִּשְׁלָמָא רֵישׁ לָקִישׁ – כְּדַאֲמַר טַעַם, אֶלָּא לְרַבִּי יוֹחָנָן מַאי טַעֲמָא?

The Gemara asks: **Granted,** according to **Reish Lakish,** who holds the firstborn were not sanctified following the census until they entered Eretz Yisrael, the **reason** is **as he said,** that it is written: "And it shall be when the Lord shall bring you into the land of the Canaanites… and you shall set apart all firstborn of the womb to the Lord" (Exodus 13:11–12). **But according to Rabbi Yoḥanan,** who holds that the firstborn continued to be sanctified following the census, **what is the reason,** i.e., the source, for his opinion?

אֲמַר רַבִּי אֶלְעָזָר: רַבִּי יוֹחָנָן חֲזַאי בְּחֵילְמָא, דְּמֵילְתָא מְעַלַּיְתָא אָמְינָא: אָמַר קְרָא "לִי יִהְיוּ" – בַּהֲוָיָתָן יְהוּ.

Rabbi Elazar said: I saw Rabbi Yoḥanan in a dream, which is a sign that **I am saying a proper matter** in explaining his opinion. **The verse states:** "For all the firstborn are Mine: On the day that I smote all the firstborn in the land of Egypt I sanctified to Me all the firstborn in Israel, both man and animal, **Mine they shall be:** I am the Lord" (Numbers 3:13). The additional phrase "Mine they shall be" indicates that **they shall be,** i.e., shall remain, **in their** current **state** of sanctity.

וְרַבִּי יוֹחָנָן, "וְהָיָה כִּי יְבִיאֲךָ...וְהַעֲבַרְתָּ" מַאי עָבִיד לֵיהּ? הַהוּא מִיבָּעֵי לֵיהּ לְכִדְתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: עֲשֵׂה מִצְוָה זוֹ שֶׁבִּשְׁבִילָהּ תִּיכָּנֵס לָאָרֶץ.

The Gemara asks: **And** as for **Rabbi Yoḥanan,** with regard to the verse **"And it shall be when** the Lord **shall bring you** … **and you shall set apart," what does he do with it?** The Gemara answers: **That** expression **is necessary to** teach **that which the *tanna* of the school of Rabbi Yishmael taught: Perform this mitzva on account of which you will** be privilged to **enter into Eretz** Yisrael.

אֲמַר לֵיהּ רַב מָרְדְּכַי לְרַב אַשִׁי: אַתּוּן הָכִי מַתְנִיתוּ לָהּ. אֲנַן אִיפְּכָא מַתְנִינַן לָהּ, רַבִּי יוֹחָנָן אָמַר: לֹא קָדְשׁוּ בִּכּוֹרוֹת בַּמִּדְבָּר, וְרֵישׁ לָקִישׁ אָמַר: קָדְשׁוּ בִּכּוֹרוֹת בַּמִּדְבָּר.

Rav Mordekhai[P] **said to Rav Ashi: You teach** the dispute between Rabbi Yoḥanan and Reish Lakish **in this manner,** whereas **we teach it** in **the opposite** manner: **Rabbi Yoḥanan says the firstborn were not sanctified in the wilderness, and Reish Lakish says the firstborn were sanctified in the wilderness.**

אֲמַר לֵיהּ: וְאַפְּכִית נַמִּי תִּיוּבְתָּא, וְאַפְּכִיתוּ לָהּ לְהָא דְּרַבִּי אֶלְעָזָר? אֲמַר לֵיהּ: "לֹא קָדְשׁוּ" לְהוּ – לֹא הוּצְרְכוּ לְיַקְּדֵשׁ.

Rav Ashi **said to him: And do you also reverse the objections** raised by one against the other, **and do you** also **reverse that which Rabbi Elazar** said, that he saw Rabbi Yoḥanan in a dream and interpreted his opinion to be referring to Reish Lakish instead? Rav Mordekhai **said to him:** According to my tradition, when Rabbi Yoḥanan stated that the firstborn in the wilderness **were not sanctified** he meant that **they did not need to be consecrated,** i.e., one who wished to sacrifice a firstborn lamb did not need to consecrate it, as they were already sanctified as firstborns. And Reish Lakish disagreed.

אִי הָכִי, הַיְינוּ דִּידָן! קָא מַשְׁמַע לָן: חַיָּיב אָדָם לוֹמַר בִּלְשׁוֹן רַבּוֹ.

The Gemara asks: **If so, that is** the same as **our** tradition, that in Rabbi Yoḥanan's opinion the firstborn that were born in the wilderness were sanctified, and in Reish Lakish's opinion they were not. For what purpose, then, did Rav Mordekhai inform Rav Ashi of his alternative version of the dispute? The Gemara answers that it **teaches us** that **a person must say** what he was taught **in the** precise **language** employed by **his teacher.**

PERSONALITIES

Rav Mordekhai – רַב מָרְדְּכַי: Rav Mordekhai was a sixth- or seventh-generation Babylonian *amora*. He related many statements of earlier *amora'im* which he had received from other Sages, possibly the Sages of Hagronya, where he lived. He was apparently a student of Rav Ashi, as he appears a number of times in the Talmud citing halakhic traditions in the presence of Rav Ashi. By citing statements and traditions that differed from those known to Rav Ashi, Rav Mordekhai was able to offer alternative approaches to the difficulties being discussed, as occurs in this Gemara.

Rav Mordekhai lived for an extended period of time following Rav Ashi's death, and when the next generation of *amora'im* were uncertain with regard to halakhic matters and sent inquiries to him, he informed them what he had heard from Rav Ashi with regard to the matter. Although another Sage named Rav Mordekhai, who was a student of Rava, is found elsewhere in the Talmud, it is difficult to assume that it was the same person.

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שָׁאַל קוֹנְטְרוֹקוֹס הַשַּׂר אֶת רַבָּן יוֹחָנָן בֶּן זַכַּאי: בִּפְרָטָן שֶׁל לְוִיִּם אַתָּה מוֹצֵא עֶשְׂרִים וּשְׁנַיִם אֶלֶף וּשְׁלֹשׁ מֵאוֹת, בְּכֻלָּן אַתָּה מוֹצֵא עֶשְׂרִים וּשְׁנַיִם אֶלֶף, וּשְׁלֹשׁ מֵאוֹת לְהֵיכָן הָלְכוּ?

§ With regard to the abrogation of the sanctity of the firstborn in the wilderness by the Levites, the Gemara relates that **Kontrokos**[P] **the officer asked Rabban Yoḥanan ben Zakkai: In** the **individual** count **of** each family of **Levites you find** that there were **22,300** (see Numbers 3:22–34). But **in** the **collective** count **of** the entire tribe **you find** a total of **22,000,** as it is stated: "All the males from a month old and upward, were 22,000" (Numbers 3:39). **Where,** then, **did** the other **three hundred** Levites **go?**

אָמַר לוֹ: אוֹתָן שְׁלֹשׁ מֵאוֹת – בְּכוֹרוֹת הָיוּ, וְאֵין בְּכוֹר מַפְקִיעַ בְּכוֹר. מַאי טַעֲמָא? אָמַר אַבַּיֵי: דַּיּוֹ לִבְכוֹר שֶׁיַּפְקִיעַ קְדוּשַׁת עַצְמוֹ.

Rabban Yoḥanan ben Zakkai **said to him:** The total sum includes only those Levites who redeemed the Israelite firstborn. **Those** additional **three hundred** Levites **were** themselves **firstborns, and a firstborn** Levite **cannot abrogate** the sanctity of **a firstborn** Israelite. The Gemara asks: **What is the reason? Abaye says:** It **is sufficient for** a Levite **firstborn to abrogate his own** firstborn **sanctity.**

וְעוֹד שְׁאָלוֹ: בְּגִבּוּי כֶּסֶף אַתָּה מוֹצֵא מָאתַיִם וְאַחַת כִּכָּר וְאַחַת עֶשְׂרֵה מָנֶה, דִּכְתִיב: ״בֶּקַע לַגֻּלְגֹּלֶת מַחֲצִית הַשֶּׁקֶל בְּשֶׁקֶל הַקֹּדֶשׁ״ וגו׳.

Additionally, Kontrokos **asked** Rabban Yoḥanan ben Zakkai: **With regard to the collection of silver** by Moses for the Tabernacle, **you find** that the total amount is **201 talents and eleven *maneh*, as it is written** that they amassed: **"A *beka* a head, that is, half a shekel, of the shekel of the Sanctuary**... for 603,550 men" (Exodus 38:26), which totals 301,775 shekels. This sum equals 201 talents and eleven *maneh*, as each talent contains 1,500 shekels, or sixty *maneh*, and each *maneh* contains twenty-five shekels.

וּבִנְתִינַת הַכֶּסֶף אַתָּה מוֹצֵא מְאַת כִּכָּר, דִּכְתִיב: ״וַיְהִי מְאַת כִּכַּר הַכֶּסֶף לָצֶקֶת״ וגו׳, מֹשֶׁה רַבְּכֶם גַּנָּב הָיָה, אוֹ קוּבְיוֹסְטוֹס הָיָה, אוֹ אֵינוֹ בָּקִי בְּחֶשְׁבּוֹנוֹת? נָתַן מֶחֱצָה וְנָטַל מֶחֱצָה, וּמֶחֱצָה שָׁלֵם לֹא הֶחֱזִיר!

But with regard to the giving of the silver to the Tabernacle **you find** only **one hundred talents, as it is written: "And the hundred talents of silver were for casting"** (Exodus 38:27). Now, **was Moses your teacher a thief, or was he a gambler** [***kuveyustus***],[L] **or** was he **not expert in accounting? He gave half** of the money for the Tabernacle **and took half** for himself, **and he did not return** even **a complete half** to the Tabernacle.

אָמַר לוֹ: מֹשֶׁה רַבֵּינוּ גִּיזְבָּר נֶאֱמָן הָיָה, וּבָקִי בְּחֶשְׁבּוֹנוֹת הָיָה, וּמָנֶה שֶׁל קוֹדֶשׁ כְּפוּל הָיָה.

Rabban Yoḥanan ben Zakkai **said to him: Moses, our teacher, was a trustworthy treasurer and was expert in accounting, but a *maneh* of the Sanctuary,** which was used to measure the one hundred talents used for the sockets, **was double**[B] the value of a standard *maneh*, i.e., fifty shekels instead of twenty-five shekels. Therefore, the one hundred talents given by Moses were equivalent to the two hundred talents that he collected from the Jewish people.

הֲוֵי בָּהּ רַב אַחַאי: מַאי קָא קַשְׁיָא לֵיהּ? ״וַיְהִי מְאַת כִּכַּר הַכֶּסֶף לָצֶקֶת״ וגו׳, הָנָךְ – לָצֶקֶת, וְאִינָךְ – בֵּי גַּזָּא! כָּתַב קְרָא אַחֲרִינָא: ״וְכֶסֶף פְּקוּדֵי הָעֵדָה מְאַת כִּכַּר״ וגו׳.

Rav Aḥai discusses it: What posed a difficulty for Rabban Yoḥanan ben Zakkai that forced him to offer this answer? Was it the verse: **"And the hundred talents of silver were for casting** the sockets of the Sanctuary" (Exodus 38:27)? If so, one can explain that **these** one hundred talents were designated **for casting** the sockets, **and the other** one hundred talents that are not mentioned here were placed in **the treasury.** The Gemara answers that **another verse is written** that discusses the total sum collected, and only one hundred talents are mentioned: **"And the silver of those that were numbered of the congregation was a hundred talents"** (Exodus 38:25).

וּדְקָאָמַר לֵיהּ: מָנֶה שֶׁל קוֹדֶשׁ כְּפוּל הָיָה, מְנָא לֵיהּ?

The Gemara asks: **And** with regard to **that which** Rabban Yoḥanan ben Zakkai **said to** Kontrokos, that **a *maneh* of the Sanctuary was double** the value of a standard *maneh*, **from where does he** derive this?

אִילֵימָא מִינַּיהּ, שָׁהֲרֵי כָּאן שִׁבְעִים וְאֶחָד מָנֶה – ״וְאֶת הָאֶלֶף וּשְׁבַע מֵאוֹת וַחֲמִשָּׁה וְשִׁבְעִים עָשָׂה וָוִים לָעַמּוּדִים״, וְלֹא מָנָן הַכָּתוּב אֶלָּא בִּפְרוֹטְרוֹט. וְאִם אִיתָא – ״מֵאָה וְאֶחָד כִּכַּר וְאַחַת עֶשְׂרֵה מָנֶה״ מִיבָּעֵי לֵיהּ.

If we say that it is derived **from** the verse **itself** that Kontrokos mentioned (Exodus 38:27), then the derivation would be **as** follows: In addition to the one hundred talents, additional silver coins are mentioned **here** that equal **seventy-one *maneh*,** as it is stated: **"And of the 1,775 shekels he made hooks for the pillars"** (Exodus 38:28), which is equal to one talent, or sixty *maneh*, plus an additional eleven *maneh*, **and the verse counted them only** using the value **of small coins,** i.e., shekels, and not in talents. **And if it is so** that a *maneh* of the Sanctuary was of equal value to a common *maneh*, then the verse **should have** expressed this value using larger coins, writing: **101 talents and eleven *maneh*.**

PERSONALITIES

Kontrokos – קוֹנְטְרוֹקוֹס: There are several explanations for the name of this man, who was an officer, or possibly commander, in the Roman army. One opinion is that it is an adaptation of the Roman name Quietus. According to all versions of this incident, he was a Roman officer who was in Eretz Yisrael during the years before the destruction of the Second Temple. During those generations there were already numerous Romans, primarily from the aristocracy, who took an interest in Judaism and its writings. Some even converted. These Romans often studied the Bible, presumably using the Septuagint, and were capable of asking sophisticated questions.

LANGUAGE

Gambler [*kuveyustus*] – קוּבְיוֹסְטוֹס: From the Greek κυβευτής, *kubeutēs*, which means a gambler. The word originates from κυβεία, *kubeia*, the Greek word for dice.



Amphora with depiction of Greek warriors gambling

BACKGROUND

A *maneh* of the Sanctuary was double – מָנֶה שֶׁל קוֹדֶשׁ כְּפוּל הָיָה: This phenomenon, which is proven here from an analysis of the relevant verses, existed as well in other ancient societies. For instance, two types of weights were used in Mesopotamia, one standard weight for ordinary people, and one of double value used by the kingship.

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אֶלָּא, מִדְּלָא מָנָאן הַכָּתוּב אֶלָּא בִּפְרוֹטְרוֹט, שְׁמַע מִינָּהּ: מָנֶה שֶׁל קוֹדֶשׁ כָּפוּל הָיָה.

Rather, since the verse counts this value **only** using the value **of small coins, learn from it** that **a *maneh* of the Sanctuary was double** the value of a standard *maneh* and equaled fifty shekels. Therefore, the 1,775 shekels mentioned are worth only 35½ *maneh*, which is less than a full talent, or sixty *maneh*.

וְדִילְמָא: כְּלָלֵי – קָחָשֵׁיב בְּכִכָּרֵי, פְּרָטֵי – לָא קָא חָשֵׁיב בְּכִכָּרֵי!

The Gemara rejects this proof: **But perhaps** the total amount of shekels does equal the amount of a talent, but the verse **calculates the general** amounts, i.e., the hundreds of talents, **in talents,** and the verse **does not calculate the details,** i.e., any amount less than one hundred talents, **in talents,** but in shekels.

אֶלָּא, מֵהָכָא: ״וּנְחֹשֶׁת הַתְּנוּפָה שִׁבְעִים כִּכָּר וְאַלְפַּיִם וְאַרְבַּע מֵאוֹת שָׁקָל״, שֶׁהֲרֵי כָּאן תִּשְׁעִים וְשִׁשָּׁה מָנֶה, וְלֹא מָנָאן הַכָּתוּב אֶלָּא בִּפְרוֹטְרוֹט, שְׁמַע מִינָּהּ: מָנֶה שֶׁל קוֹדֶשׁ כָּפוּל הָיָה.

Rather, the principle that a *maneh* of the Sanctuary is double the value of a common *maneh* is derived **from here: "And the brass of the offering was seventy talents and 2,400 shekels"** (Exodus 38:29). The Gemara explains: Aside from the seventy talents mentioned, **there are** an additional **ninety-six *maneh* here,** which is equivalent to one talent and an additional thirty-six *maneh*, **and the verse counts them only** using the value **of small coins. Learn from it** that **a *maneh* of the Sanctuary was double** the amount of a standard *maneh*, and that is why the number of shekels mentioned did not equal a full talent.

וְדִילְמָא: פְּרָטָא רַבָּה – קָא חָשֵׁיב בְּכִכָּרֵי, פְּרָטָא זוּטָא – לָא קָחָשֵׁיב בְּכִכָּרֵי!

The Gemara rejects this proof as well: **But perhaps** the verse is referring to a standard *maneh*, and the verse **calculates a large unit,** i.e., tens of talents, **in talents,** while the verse **does not calculate a small unit,** i.e., any amount less than ten talents, **in talents.**

אֶלָּא אָמַר רַב חִסְדָּא, מֵהָכָא: ״וְהַשֶּׁקֶל עֶשְׂרִים גֵּרָה עֶשְׂרִים שְׁקָלִים חֲמִשָּׁה וְעֶשְׂרִים שְׁקָלִים עֲשָׂרָה וַחֲמִשָּׁה שֶׁקֶל הַמָּנֶה יִהְיֶה לָכֶם״.

Rather, Rav Ḥisda says the claim that a *maneh* of the Sanctuary was double the size of a standard *maneh* is derived **from here: "And the shekel shall be twenty *gera*; twenty shekels, twenty-five shekels, ten, and five shekels, shall be your *maneh*"** (Ezekiel 45:12).[N] In this verse, Ezekiel defines the various weights used in the Temple and states that each silver shekel consists of twenty *gera*. In addition, the combination of twenty, twenty-five, ten, and five shekels yields a total sum of sixty shekels, which is the value of a *maneh*. A *maneh*, in turn, is equivalent to one hundred dinars.

NOTES

Twenty shekels, twenty-five, etc., shall be your *maneh* – עֶשְׂרִים שְׁקָלִים חֲמִשָּׁה וְעֶשְׂרִים וכו׳ הַמָּנֶה יִהְיֶה לָכֶם: The early commentaries ask why the verse did not simply say: Sixty shekels shall be your *maneh*. *Tosafot* cite the explanation of Rabbeinu Tam, which is based on the *Targum Yonatan*, that the verse refers to different weights that were used at that time in the Temple, all of which combined to the sum of a *maneh* of the Sanctuary. Other early commentaries explain Ezekiel's statement that they should not create one weight of a *maneh*, but rather multiple ones that can be used individually and combine together to the total weight of a *maneh* (Ritva on *Bava Batra* 90a). The Ramah, by contrast, explains that Ezekiel is saying they may create new coins of different values, such as twenty shekels, and the prophet merely adds parenthetically that all of the coins mentioned add up to the value of a *maneh* of the Sanctuary.

From the discussion in the Gemara here, it appears that the weight of the shekel did not change, just the number of shekels in a *maneh*. Therefore, Ezekiel is saying that the value of a *maneh*, which was worth fifty shekels, is now worth sixty shekels. *Tosafot* also note that the Gemara on 50a reports that at some point in history, four *ma'a* were added to the weight of a shekel, but it is unclear precisely when this occurred. Rabbeinu Yitzḥak of Dampierre explains that this verse is referring to that change, and Ezekiel is therefore saying as follows: The value of a *maneh* remained fifty shekels, but because the weight of each shekel increased by four *ma'a* it is now equivalent to the weight of sixty shekels of the old currency, which was equivalent to twenty.

Rabbeinu Tam, however, explains that the two passages refer to two distinct occurrences. One of them occurred in the times of Ezekiel, when a *maneh* of the Sanctuary became worth sixty shekels, while the other occurred in the period of the Sages, when both the standard shekel and the shekel of the Sanctuary ascended in value to twenty-four standard *ma'a*.

Perek **I**
Daf **5** Amud **b**

וְהָא מָאתָן וְאַרְבְּעִין הָווּ! אֶלָּא שְׁמַע מִינָּהּ: מָנֶה שֶׁל קוֹדֶשׁ – מָנֶה כָּפוּל הָיָה.

But each shekel consists of four dinars, and therefore sixty shekels **is** equivalent to **two hundred and forty** dinars, not a *maneh*, which is generally worth one hundred dinars. **Rather, learn from** this verse a number of matters: First, learn that the ***maneh* of the Sanctuary** to which Ezekiel was referring **was a *maneh*** that was **double** its standard value. Therefore, it was worth fifty shekels, which is equivalent to two hundred dinars.

וּשְׁמַע מִינָּהּ: מוֹסִיפִין עַל הַמִּדּוֹת, וְאֵין מוֹסִיפִין יָתֵר עַל שְׁתוּת. וּשְׁמַע מִינָּהּ: שְׁתוּתָא מִלְּבַר.

And furthermore, as Ezekiel stated that the *maneh* will be sixty dinars, not fifty,[B] **learn from it** that a community may **increase measures,**[NH] **but they may not increase** them by **more than one-sixth. And learn from it** that **the one-sixth** is calculated **from the outside,** i.e., it is one-sixth of the final sum, which is one-fifth of the previous sum. Therefore, adding one-fifth of the original fifty shekels, which is ten shekels, to the total equals sixty shekels. It is from this sum that the one-sixth from the outside, ten shekels, is calculated.

NOTES

A community may increase measures – מוֹסִיפִין עַל הַמִּדּוֹת: In other words, if the people of a city or region wish to change their measures of weight, volume, or currency, they may change them. Moreover, they do not need to be concerned that visiting merchants will be unaware of the change and will mislead others during their business dealings, as well as err themselves. When the members of the community make the change they may not increase the measures by more than one-sixth. This statement appears in tractate *Bava Batra* (90a), citing Shmuel, and the Gemara there does not find a clear explanation for it. Therefore, Rav Ḥisda cites the verse in Ezekiel to teach that a tradition existed about the matter (Meiri on *Bava Batra* 90a; see also Rashbam on *Bava Batra* 90b).

HALAKHA

A community may increase measures – מוֹסִיפִין עַל הַמִּדּוֹת: If the residents of a country wish to change the standard of their measures or weights, they may not increase them by more than one-sixth. For example, it is permitted for them to increase the measure of a *kav* from five units to six, but no more. If they want to lower the standard of the measures, they may do so without limitation (Rambam *Sefer Nezikin*, *Hilkhot Geneiva* 8:17; *Shulḥan Arukh*, *Ḥoshen Mishpat* 231:15 and *Sma* there).

BACKGROUND

Alteration of measures during the time of Ezekiel – שִׁנּוּי הַמִּדּוֹת בִּימֵי יְחֶזְקֵאל: In the ancient world a talent was divided into sixty *maneh*. In Canaan the talent was divided into three thousand shekels, while in Mesopotamia it was divided into 3,600 shekels. In the time of Ezekiel there was a change of one-sixth in the measure of weights, as the Gemara here mentions. This change would seem to indicate that the Babylonian system of weights was being adopted at the time of the Jews' return to Eretz Yisrael before the building of the Second Temple, just as the Jews adopted the Babylonians' written script (see *Zevaḥim* 62a) and their names of the months at that time (see Jerusalem Talmud, *Rosh HaShana* 1:2).

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אָמַר רַבִּי חֲנִינָא, שָׁאַלְתִּי אֶת רַבִּי אֱלִיעֶזֶר בְּבֵית מִדְרָשָׁא רַבָּא: מַה נִּשְׁתַּנּוּ פִּטְרֵי חֲמוֹרִים מִפִּטְרֵי סוּסִים וּגְמַלִּים? אָמַר לִי: גְּזֵירַת הַכָּתוּב הִיא. וְעוֹד, שֶׁסִּייְעוּ יִשְׂרָאֵל בִּשְׁעַת יְצִיאָתָם מִמִּצְרַיִם. שֶׁאֵין לְךָ כָּל אֶחָד וְאֶחָד מִישְׂרָאֵל שֶׁלֹּא הָיוּ עִמּוֹ תִּשְׁעִים חֲמוֹרִים לוּבִים טְעוּנִים מִכַּסְפָּהּ וּזְהָבָהּ שֶׁל מִצְרִיִּים.

§ The Gemara returns to discussing the redemption of firstborn donkeys: **Rabbi Ḥanina said: I asked Rabbi Eliezer in the great study hall:** In **what** way **are firstborn donkeys different from firstborn horses and camels,** i.e., other non-kosher animals, which are not redeemed? Rabbi Eliezer **said to me: It is a Torah edict.**[N] **And furthermore,** donkeys **assisted the Jewish people at the time of their exodus from Egypt, as there was not one** member **of the Jewish people that did not have ninety Nubian donkeys**[B] **with him,** which were considered to be of superior quality, **laden with the silver and gold of the Egyptians.**

וְעוֹד שְׁאִלְתִּיו: מַאי לְשׁוֹן ״רְפִידִים״? וְאָמַר לִי: רְפִידִים שְׁמָהּ. כְּתַנָּאֵי, רַבִּי אֱלִיעֶזֶר אוֹמֵר: רְפִידִים שְׁמָהּ. רַבִּי יְהוֹשֻׁעַ אוֹמֵר: שֶׁרִיפוּ עַצְמָן מִדִּבְרֵי תוֹרָה. וְכֵן הוּא אוֹמֵר: ״לֹא הִפְנוּ אָבוֹת אֶל בָּנִים מֵרִפְיוֹן יָדָיִם״.

Rabbi Ḥanina continues: **And furthermore, I** also **asked** Rabbi Eliezer: **What** is the meaning of **the term: "Rephidim,"** in the verse: "Then came Amalek, and fought with Israel in Rephidim" (Exodus 17:8)? **And he said to me** that **Rephidim** was **its name,** i.e., of the location. The Gemara comments that this answer is **like** one side of a dispute between ***tanna'im*: Rabbi Eliezer says** that **its** actual **name** was **Rephidim. Rabbi Yehoshua says:** This moniker is an allusion to the fact **that** the Jewish people **became lax** [***rippu***] **with regard to the statements of the Torah** in Rephidim, **and so it says: "The fathers look not back to their children because of feebleness** [***rifyon***] **of hands"** (Jeremiah 47:3).[N]

וְעוֹד שְׁאִלְתִּיו: מַאי לְשׁוֹן ״שִׁטִּים״? וְאָמַר לִי: שִׁטִּים שְׁמָהּ. כְּתַנָּאֵי, רַבִּי אֱלִיעֶזֶר אוֹמֵר: שִׁטִּים שְׁמָהּ, רַבִּי יְהוֹשֻׁעַ אוֹמֵר: שֶׁנִּתְעַסְּקוּ בְּדִבְרֵי שְׁטוּת.

And furthermore, I also **asked him** the following question: **What** is the meaning of **the term "Shittim"** in the verse: "And Israel dwelled in Shittim" (Numbers 25:1)? **And he said to me** that **Shittim** was **its name.** The Gemara comments that this answer is **like** one side of a dispute between ***tanna'im*: Rabbi Eliezer says: Shittim** is **the** actual **name of** the place. **Rabbi Yehoshua says:** This moniker is an allusion to the fact **that they were engaged in matters of nonsense** [***shetut***], i.e., prostitution and idol worship (see Numbers, chapter 25).

״וַתִּקְרֶאן לָעָם לִזִבְחֵי אֱלֹהֵיהֶן״. רַבִּי אֱלִיעֶזֶר אוֹמֵר: עֲרוּמוֹת פָּגְעוּ בָּהֶן. רַבִּי יְהוֹשֻׁעַ אוֹמֵר: שֶׁנַּעֲשׂוּ כוּלָּן בַּעֲלֵי קְרִיין.

The same *tanna'im* also dispute the meaning of another verse discussing that incident. With regard to the verse: **"And they called** [***vatikrena***] **the people to the offerings of their gods"** (Numbers 25:2), **Rabbi Eliezer says: Naked women encountered them,** which is how they were convinced to engage in idol worship. **Rabbi Yehoshua says that they all became those who experienced seminal emissions** [***kerayyin***] resulting from the lust they experienced.

מתני׳ פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר, וַחֲמוֹר שֶׁיָּלְדָה כְּמִין סוּס – פְּטוּרָה מִן הַבְּכוֹרָה, שֶׁנֶּאֱמַר: ״פֶּטֶר חֲמוֹר״ ״פֶּטֶר חֲמוֹר״, שְׁנֵי פְּעָמִים – עַד שֶׁיִּהְא הַיּוֹלֵד חֲמוֹר, וְהַנּוֹלָד חֲמוֹר.

MISHNA **A cow that gave birth to a donkey of sorts**[HB] **and a donkey that gave birth to a horse of sorts**[N] **are exempt from** their offspring being counted **a firstborn, as it is stated:** "And every **firstborn of a donkey** you shall redeem with a lamb" (Exodus 13:13); "and the **firstborn of a donkey** you shall redeem with a lamb" (Exodus 34:20). The Torah states this *halakha* **twice,** indicating that one is not obligated **unless** both **the birth mother is a donkey and the** animal **born is a donkey.**

BACKGROUND

Nubian donkeys – חֲמוֹרִים לוּבִים: In ancient times, there was a clear distinction between different breeds of donkeys. The Nubian donkey appears to be native to Northern Africa (see *Tosafot*), and it is referred to elsewhere as a Libyan donkey. This type of donkey was well known in ancient times for its superior capabilities in performing labor.



Nubian donkeys

Cow that gave birth to a donkey of sorts – פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר: Various factors during the period of pregnancy could cause a change in the appearance of the offspring. Some are genetic and others may be related to physical occurrences, such as wounds inflicted on the mother, during the pregnancy. In addition, some factors may be chemical in nature, resulting from certain foods or other substances entering the bloodstream of the mother.

As a result of these factors, offspring may be born with unusual characteristics that range from a radically changed appearance unlike that of any other creature to a minor physical abnormality. Even among the lesser defects, some are less significant than others, such as those that cause a change in the size or shape of a portion of the body. In other instances, these differences may cause the offspring to look more like that of a different species, such as a lamb that gives birth to an animal whose ears, hair, and tail look more like those of a goat than a lamb. Many of the blemishes mentioned in this tractate are included in this latter category of defects.

HALAKHA

Cow that gave birth to a donkey of sorts, etc. – פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר וכו׳: If a cow gave birth to a donkey of sorts or a donkey gave birth to a horse of sorts, their offspring are exempt from being counted a firstborn, in accordance with the ruling of the mishna (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:18).

NOTES

It is a Torah edict – גְּזֵירַת הַכָּתוּב הִיא: This does not mean it is a Torah edict without any understandable explanation whatsoever, as the reason for the edict is that the Egyptians, who were killed by the plague of the firstborn, are compared to donkeys (see Ezekiel 23:20). Therefore, the redemption of firstborn donkeys serves as a reminder of the plague of the firstborn (Rashi; Rabbeinu Baḥyei). The Gemara means that although generally a non-kosher animal does not have firstborn sanctity, it is a Torah edict that donkeys do have firstborn sanctity (Maharsha).

The fathers look not back to their children because of feebleness of hands – לֹא הִפְנוּ אָבוֹת אֶל בָּנִים מֵרִפְיוֹן יָדַיִם: The Maharsha notes that the straightforward meaning of this verse is not at all about the Jewish people but about the prophecies concerning the destruction of the Philistines. It is cited here as a biblical precedent for the expression: Feebleness of hands, and serves as proof that the name Rephidim can be interpreted homiletically as an abbreviation for this expression (see also the sources referenced in the *Masoret HaShas*).

And a donkey that gave birth to a horse of sorts – וַחֲמוֹר שֶׁיָּלְדָה כְּמִין סוּס: The same *halakha* applies if a donkey gave birth to a cow of sorts, but the Gemara explains in the next *amud* that the mishna discusses the case of a horse due to a novelty: Although a horse does somewhat resemble a donkey it is still not considered to be the same species, and the animal born does not have firstborn status. According to the Rosh (*Piskei HaRosh*, and *Tosafot HaRosh* cited in the *Shita Mekubbetzet*), however, the correct text of the mishna should read: And a donkey that gave birth to a cow of sorts. The Rosh explains that the reason the standard text is different is that it was confused with the text of the *baraita* cited in the Gemara.

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וּמָה הֵם בַּאֲכִילָה? בְּהֵמָה טְהוֹרָה שֶׁיָּלְדָה כְּמִין בְּהֵמָה טְמֵאָה – מוּתָּר בַּאֲכִילָה, וְטְמֵאָה שֶׁיָּלְדָה כְּמִין בְּהֵמָה טְהוֹרָה – אָסוּר בַּאֲכִילָה, שֶׁהַיּוֹצֵא מִן הַטָּמֵא – טָמֵא, וְהַיּוֹצֵא מִן הַטָּהוֹר – טָהוֹר.

And what is the halakhic status of offspring that are unlike the mother animal **with regard to** their **consumption?**[H] In the case of **a kosher animal that gave birth to a non-kosher animal of sorts,** its **consumption is permitted. And** in the case of **a non-kosher** animal **that gave birth to a kosher animal of sorts,** its **consumption is prohibited.** This is **because that which emerges from the non-kosher** animal **is non-kosher and that which emerges from the kosher** animal **is kosher.**

גמ׳ תְּנַן הָתָם: רָחֵל שֶׁיָּלְדָה מִין עֵז, וְעֵז שֶׁיָּלְדָה מִין רָחֵל – פָּטוּר מִן הַבְּכוֹרָה, וְאִם יֵשׁ בּוֹ מִקְצָת סִימָנִין – חַיָּיב.

GEMARA With regard to the issue of a kosher animal that gave birth to a donkey of sorts and its firstborn status, the Gemara comments: **We learned** in a mishna **there** (16b): **A ewe that gave birth to a goat of sorts**[H] **and a goat that gave birth to a ewe of sorts are exempt** from the mitzva of the **firstborn. And if** the offspring **has some of the characteristics** of its mother, it is **obligated,** i.e., subject to the obligations of firstborn status.

מְנָא הָנֵי מִילֵּי? אָמַר רַב יְהוּדָה: דְּאָמַר קְרָא: ״אַךְ בְּכוֹר שׁוֹר״ – שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר, ״בְּכוֹר כֶּשֶׂב״ – שֶׁיְּהֵא הוּא כֶּשֶׂב וּבְכוֹרוֹ כֶּשֶׂב, ״בְּכוֹר עֵז״ – שֶׁיְּהֵא הוּא עֵז וּבְכוֹרוֹ עֵז;

The Gemara asks: **From where are these matters** derived? **Rav Yehuda says** they are derived from a verse, **as the verse states** with regard to a firstborn kosher animal: "**But the firstborn of an ox,** or the firstborn of a lamb, or the firstborn of a goat, you shall not redeem, they are holy" (Numbers 18:17). The word firstborn seems superfluous in this verse, as it is clear from the context that it is referring to a firstborn. Therefore, the phrase "the firstborn of an ox" is interpreted as teaching **that it must be an ox and its firstborn** must be **an ox** in order for firstborn status to apply. Likewise, the phrase "**the firstborn of a lamb**" teaches **that it must be a lamb and its firstborn a lamb,** and not another animal. Similarly, the phrase "**the firstborn of a goat**" teaches **that it must be a goat and its firstborn a goat.**

יָכוֹל אֲפִילּוּ יֵשׁ בּוֹ מִקְצָת סִימָנִין? תַּלְמוּד לוֹמַר: ״אַךְ״ – חִלֵּק.

One **might** have thought that **even** if the offspring **has some of the characteristics** of the mother it should still be exempt, as it does not entirely resemble the mother. Therefore, **the verse states: "But,"** indicating that the Torah **makes a distinction** with regard to this principle, in that it does not apply when the offspring has some of the characteristics of the mother; and the offspring therefore does have firstborn status.

וְהָא תַּנָּא ״פֶּטֶר״ ״פֶּטֶר״ קָנֵסֵיב לָהּ לִפְרָה!

The Gemara asks: **But doesn't the *tanna*** of the mishna here **cite** the verses "**firstborn,**" "**firstborn,**" from Exodus (13:13, 34:20), **with regard to** the case of **a cow** that gave birth to a donkey of sorts, as teaching that the offspring has no firstborn status? Why, then, does Rav Yehuda resort to interpreting a different verse?

הוּא דְּאָמַר כְּרַבִּי יוֹסֵי הַגְּלִילִי. דְּתַנְיָא, רַבִּי יוֹסֵי הַגְּלִילִי אוֹמֵר: ״אַךְ בְּכוֹר שׁוֹר״ – עַד שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר, ״בְּכוֹר כֶּשֶׂב״ – עַד שֶׁיְּהֵא הוּא כֶּשֶׂב וּבְכוֹרוֹ כֶּשֶׂב, ״אוֹ בְכוֹר עֵז״ – עַד שֶׁיְּהֵא הוּא עֵז וּבְכוֹרוֹ עֵז;

The Gemara answers that this interpretation was not suggested originally by Rav Yehuda; rather, **he says** it **in accordance with** the opinion of **Rabbi Yosei HaGelili, as it is taught** in a *baraita*: **Rabbi Yosei HaGelili says** the phrase "**but the firstborn of an ox**" indicates that the offspring does not have firstborn status **unless it is an ox and its firstborn is an ox.** The phrase "**the firstborn of a lamb**" indicates that the offspring does not have firstborn status **unless it is a lamb and its firstborn is a lamb.** Likewise, the phrase "**or the firstborn of a goat**" indicates that the offspring does not have firstborn status **unless it is a goat and its firstborn is a goat.**

HALAKHA

And what is the status of offspring that are unlike the mother animal with regard to their consumption – וּמָה הֵם בַּאֲכִילָה: If a non-kosher animal gave birth to a kosher animal of sorts, even if it has all the characteristics of a kosher animal, its consumption is forbidden. In the case of a kosher animal that gave birth to a non-kosher animal of sorts, the latter is permitted even if it possesses all of the characteristics of a non-kosher animal (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 1:4–5; *Shulḥan Arukh*, *Yoreh De'a* 79:2).

Ewe that gave birth to a goat of sorts, etc. – רָחֵל שֶׁיָּלְדָה מִין עֵז וכו׳: If a ewe gave birth to a goat of sorts or a goat gave birth to a ewe of sorts, the offspring is not counted a firstborn. If the offspring had some of the characteristics of its mother it is considered a firstborn animal with a blemish, in accordance with the mishna on 16b and with the statement of Rabbi Yoḥanan on 3b (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:6; *Shulḥan Arukh*, *Yoreh De'a* 315:6).

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יָכוֹל אֲפִילּוּ יֵשׁ בּוֹ מִקְצָת סִימָנִין? תַּלְמוּד לוֹמַר: ״אַךְ״ – חִלֵּק.

One **might** have thought that **even** if the offspring **has some of the characteristics** of the mother this principle that it must be entirely like the mother applies, and it does not have firstborn status. Therefore, **the verse states: "But,"** indicating that the Torah **makes a distinction** with regard to this principle, in that it does not apply when the offspring has some of the characteristics of the mother; and the offspring therefore does have firstborn status.

בְּמַאי קָמִיפַּלְגִי? תַּנָּא דִּידָן סָבַר: גַּלֵּי רַחֲמָנָא בִּקְדוּשַּׁת דָּמִים, וְהוּא הַדִּין בִּקְדוּשַּׁת הַגּוּף;

The Gemara asks: **With regard to what** matter **do** the *tanna* of the mishna and Rabbi Yosei HaGelili **disagree,** and therefore derive this *halakha* from different verses? The Gemara answers: **The *tanna* of our** mishna **holds** that **the Merciful One revealed** in the Torah that a firstborn donkey, which is subject **to sanctity** that inheres in its **value** in that a lamb is given to the priest to redeem it, does not have firstborn status unless it resembles its mother, **and the same is true with regard to** a kosher firstborn animal, which has **inherent sanctity** and is sacrificed on the altar.

וְרַבִּי יוֹסֵי סָבַר: גַּלֵּי רַחֲמָנָא בִּקְדוּשַּׁת הַגּוּף וְהוּא הַדִּין בִּקְדוּשַּׁת דָּמִים, וְגָמַר קְדוּשַּׁת דָּמִים מִקְדוּשַּׁת הַגּוּף.

And Rabbi Yosei HaGelili **holds** that **the Merciful One revealed** that a kosher firstborn animal, which is subject **to inherent sanctity,** does not have firstborn status unless it resembles its mother, **and the same is true with regard to** a donkey, which has **sanctity** that inheres in its **value, and he derives** the *halakha* of **sanctity** that inheres in its **value from** the *halakha* of **inherent sanctity.**[N]

וְתַנָּא דִּידָן, הַאי ״בְּכוֹר״ ״בְּכוֹר״ מַאי עָבֵיד לֵיהּ? מִיבָּעֵי לֵיהּ לְכִדְרַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא,

The Gemara asks: **And** as for **the *tanna* of our** mishna, **what does he do with this** repetition of the word: **"Firstborn," "firstborn,"** employed both with regard to an ox and with regard to a lamb and goat, from which Rabbi Yosei HaGelili derives this *halakha*? The Gemara answers: He **requires it to** teach the *halakha* of burning the sacrificial portions of the animal on the altar, which is mentioned in this verse: "And you shall make their fat burn" (Numbers 18:17), **in accordance with** the interpretation **of Rabbi Yosei, son of Rabbi Ḥanina.**

דְּאָמַר רַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא: לָמָּה נֶאֶמְרוּ אֵימוּרִין בִּבְכוֹר שׁוֹר, אֵימוּרִין בִּבְכוֹר כֶּשֶׂב, אֵימוּרִין בִּבְכוֹר עֵז?

As Rabbi Yosei, son of Rabbi Ḥanina, says: Why were sacrificial portions stated with regard to a firstborn ox, and the **sacrificial portions** are mentioned again **with regard to a firstborn lamb,** and the **sacrificial portions** are mentioned again **with regard to a firstborn goat?**

צְרִיכָא, דְּאִי כְּתַב רַחֲמָנָא בִּבְכוֹר שׁוֹר – שֶׁכֵּן נִתְרַבָּה בְּנָסָכִים,

It **is necessary, as had the Merciful One written** the *halakha* of burning the sacrificial portions on the altar only **with regard to a firstborn ox,** one might have said only an ox's sacrificial portions are burned, **as** an ox offering **has more** wine **libations** than a lamb or a goat. Therefore, perhaps the additional obligation of burning the sacrificial portions applies only to an ox.

כֶּשֶׂב – שֶׁכֵּן נִתְרַבָּה בְּאַלְיָה,

Likewise, if this *halakha* had been written only with regard to **a lamb,** one might have thought only a lamb's portions are burned, **as it has more** sacrificial portions than other animals because its **tail** is also included.

NOTES

And he derives the *halakha* of sanctity that inheres in its value from the *halakha* of inherent sanctity – וְגָמַר קְדוּשַּׁת דָּמִים מִקְדוּשַּׁת הַגּוּף: Rabbeinu Gershom Meor HaGola explains that according to the *tanna* of the mishna, the *halakha* of a firstborn kosher animal is derived via an *a fortiori* inference from the *halakha* of the redemption of a firstborn donkey, as follows: If an animal that possesses sanctity that only inheres in its value is not sanctified unless it is the same species as its mother, then certainly an animal with inherent sanctity, which has more stringent *halakhot*, is not sanctified unless it resembles the mother. By contrast, the case of an animal with sanctity that inheres in its value cannot be derived from the case of an animal with inherent sanctity, as the latter is more stringent.

Rabbi Yosei HaGelili, who derives the *halakha* from the phrase "but the firstborn of an ox," holds that the *halakha* of a firstborn ox can be used as a paradigm to teach the general definition of the category of a firstborn animal, even though the specific *halakhot* will be different in each case. This is what the Gemara means when it says: And he derives, i.e., through a paradigm, the *halakha* of sanctity that inheres in its value from the *halakha* of inherent sanctity.

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HALAKHA

Firstborn horses and camels – פִּטְרֵי סוּסִים וּגְמַלִּים: The *halakha* of redeeming a firstborn non-kosher animal applies only to a donkey, in accordance with the ruling of the *baraita* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:3; *Shulḥan Arukh*, *Yoreh De'a* 321:1).

בְּעֵז – שֶׁכֵּן נִתְרַבָּה אֵצֶל עֵבוֹדָה זָרָה בְּיָחִיד.

Likewise, if it had been written only **with regard to a goat,** one might have thought the burning of the portions applies only in that case, **as it has an increased** applicability **with regard to** the case of **an individual** guilty of **idol worship,** who brings a goat as a sin offering; unlike one who commits other sins unwittingly, for which a lamb may be brought.

חֲדָא מֵחֲדָא לָא אָתְיָא, תֵּיתֵי חֲדָא מִתַּרְתֵּי!

The Gemara challenges: The *halakha* with regard to **one** of these cases, i.e., an ox, lamb, or goat offering, evidently **cannot be derived from one** of the others. Why not **derive one** of them **from** the other **two?**

בְּהֵי לָא לִיכְתּוֹב? לָא לִיכְתּוֹב רַחֲמָנָא בְּשׁוֹר וְתֵיתֵי מֵהָנָךְ – מַה לְהָנָךְ שֶׁכֵּן נִתְרַבּוּ אֵצֶל פְּסָחִים!

The Gemara responds: **With regard to which** case **shall** the Torah **not write** this *halakha*? If **the Merciful One shall not write** it **with regard to an ox, and** one should **derive** it **from these** other cases, that derivation is not valid. **What** is notable **about these** offerings, i.e., a lamb and a goat? They are notable in **that they have an increased** applicability **with regard to the Paschal offering,** for which a lamb or a goat is suitable but not an ox.

לָא לִכְתּוֹב בְּכֶשֶׂב וְתֵיתֵי מֵהָנָךְ – מַה לְהָנָךְ שֶׁכֵּן נִתְרַבּוּ אֵצֶל עֵבוֹדָה זָרָה בְּצִיבּוּר!

If the Merciful One **should not write** this *halakha* **with regard to a lamb, and** one should **derive** it **from these** cases of an ox and a goat, that derivation is not valid either. **What** is notable **about these** offerings, i.e., an ox and a goat? They are notable in **that they have an increased** applicability **with regard to** a case where the entire Jewish **community** is guilty of unwitting **idol worship,** as in such a case the community brings an ox as a burnt offering and a goat as a sin offering (see Numbers 15:24), but not a lamb.

לָא נִיכְתּוֹב רַחֲמָנָא בְּעֵז, וְתֵיתֵי מֵהָנָךְ – מַה לְהָנָךְ שֶׁכֵּן יֵשׁ בָּהֶן צַד רִבּוּי אֵצֶל מִזְבֵּחַ! הֵילְכָךְ צְרִיכִי.

If **the Merciful One shall not write** the obligation to burn the sacrificial portions **with regard to a goat, and** one should **derive** it **from these** cases of an ox and a lamb, that derivation is not valid either. **What** is notable **about these** offerings, namely, an ox and a lamb? They are notable in **that they have an element of increase with regard to the altar,** as the libations for an ox are larger than those for a goat; and also the tail of a lamb, but not that of a goat, is a sacrificial portion. The Gemara concludes: **Therefore,** all three cases **are necessary.**

וְרַבִּי יוֹסֵי הַגְּלִילִי: אִם כֵּן לִיכְתּוֹב קְרָא: ״אַךְ בְּכוֹר שׁוֹר כֶּשֶׂב וְעֵז״, ״בְּכוֹר״ ״בְּכוֹר״ לָמָּה לִי? אֶלָּא לָאו שְׁמַע מִינָּה: עַד שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר.

The Gemara asks: **And** how does **Rabbi Yosei HaGelili** interpret this verse as teaching that a firstborn must resemble its mother in order to have firstborn status? Isn't the verse necessary to teach the *halakha* of burning the sacrificial portions upon the altar? The Gemara answers: **If** it is **so** that the verse teaches only that *halakha*, **let the verse write: But a firstborn ox, lamb, or goat. Why do I** need the word "**firstborn**" to be repeated with regard to a lamb, and the word "**firstborn**" to be repeated again with regard to a goat? **Rather, isn't it** correct to **conclude from** here that the mother is not subject to having its offspring counted as a firstborn **unless** it resembles its mother, e.g., the mother **is an ox and its firstborn is an ox?**

וְרַבִּי יוֹסֵי הַגְּלִילִי, הַאי ״פֶּטֶר חֲמוֹר״ ״פֶּטֶר חֲמוֹר״ מַאי עָבֵיד לֵיהּ?

The Gemara asks: **And** as for **Rabbi Yosei HaGelili, what does he do with this** phrase: "**Firstborn of a donkey,**" "**firstborn of a donkey,**" mentioned twice in Exodus, from which the *tanna* of the mishna derives that the offspring must resemble its mother in order to have firstborn status?

מִיבָּעֵי לֵיהּ לְכִדְתַנְיָא, רַבִּי יוֹסֵי הַגְּלִילִי אוֹמֵר: מִתּוֹךְ שֶׁנֶּאֱמַר ״אַךְ פָּדֹה תִפְדֶּה אֵת בְּכוֹר הָאָדָם וְאֵת בְּכוֹר הַבְּהֵמָה הַטְּמֵאָה תִּפְדֶּה״, שׁוֹמֵעַ אֲנִי אֲפִילּוּ פִּטְרֵי סוּסִים וּגְמַלִּים? תַּלְמוּד לוֹמַר: ״פֶּטֶר חֲמוֹר״ – פֶּטֶר חֲמוֹר אֲמַרְתִּי לְךָ, וְלֹא פִּטְרֵי סוּסִים וּגְמַלִּים.

The Gemara answers that **he requires** that phrase **for that which is taught** in a *baraita*: **Rabbi Yosei HaGelili says** that **since it is stated: "Yet you shall redeem the firstborn of man, and the firstborn of non-kosher animals you shall redeem"** (Numbers 18:15), **I** would **derive** that **even firstborn horses and camels**[H] must be redeemed, as they too are non-kosher animals. Therefore, **the verse states: "Firstborn of a donkey,"** which indicates **I said to you** that firstborn status applies to **a firstborn donkey, but not** to **firstborn horses or camels.**

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וַעֲדַיִין אֲנִי אוֹמֵר: פִּטְרֵי חֲמוֹר – בְּשֶׂה, פִּטְרֵי סוּסִים וּגְמַלִּים – בְּכָל דָּבָר!

And still I can say that the phrase "firstborn of a donkey" merely indicates that **firstborn donkeys** alone are redeemed **by means of a lamb,** while **firstborn horses and camels** are redeemed **by means of any** other **item.**

Perek **I**
Daf **6** Amud **a**

תַּלְמוּד לוֹמַר: "פֶּטֶר חֲמוֹר" "פֶּטֶר חֲמוֹר" שְׁנֵי פְּעָמִים, פִּטְרֵי חֲמוֹרִים אָמַרְתִּי לְךָ, וְלֹא פִּטְרֵי סוּסִים וּגְמַלִּים.

Therefore, **the verse states** the phrase: "**Firstborn of a donkey**" (Exodus 13:13), "**firstborn of a donkey**" (Exodus 34:20), mentioning it a total of **two times.** The additional usage of the term indicates **I said to you** that firstborn status applies only to **firstborns of donkeys, but not** to **firstborns of horses or camels.**

פָּרֵיךְ רַב אַחַאי: אִי כְּתַב רַחֲמָנָא חַד, הֲוָה אָמֵינָא: דָּבָר שֶׁהָיָה בִּכְלָל וְיָצָא מִן הַכְּלָל לְלַמֵּד, לֹא לְלַמֵּד עַל עַצְמוֹ יָצָא אֶלָּא לְלַמֵּד עַל הַכְּלָל כּוּלּוֹ יָצָא, וּלְעוֹלָם בְּשֶׂה,

Rav Aḥai refutes this claim: How can the extra verse alone indicate that other firstborn non-kosher animals do not have firstborn status? **If the Merciful One had written** the term "firstborn of a donkey" **once, I would say** a firstborn donkey is **an item that was included in a generalization** of all non-kosher animals, **but emerged from the generalization to teach**[B] that it must be redeemed by means of a lamb. According to the principles of exegesis, it **emerged** from the generalization **to teach not** just **about itself, but emerged to teach about the entire generalization. And** accordingly, all non-kosher animals should **actually** be redeemed **by means of a lamb** as well.

כְּתַב רַחֲמָנָא "פֶּטֶר חֲמוֹר" אַחֲרִינָא – פִּטְרֵי חֲמוֹרִים וְלֹא פִּטְרֵי סוּסִים וּגְמַלִּים; וְאֵימָא: מַעֲטִינְהוּ מִשֶּׂה, וּלְעוֹלָם בְּכָל דָּבָר!

Therefore, **the Merciful One writes: "Firstborn of a donkey," another** time, to teach that only **firstborn donkeys** must be redeemed by means of a lamb, **but not firstborn horses or camels. And** therefore **I can say** that perhaps the earlier suggestion is correct: The Torah **excluded** firstborn horses and camels **from** being redeemed by means of **a lamb, but actually,** they must still be redeemed **by means of any** other **item.**

אִם כֵּן, לִכְתּוֹב רַחֲמָנָא: "פֶּטֶר חֲמוֹר תִּפְדֶּה בְשֶׂה" וַ"חֲמוֹר תִּפְדֶּה בְשֶׂה", "פֶּטֶר חֲמוֹר תִּפְדֶּה בְשֶׂה" "פֶּטֶר חֲמוֹר תִּפְדֶּה בְשֶׂה" לָמָּה לִי? פִּטְרֵי חֲמוֹרִים אָמַרְתִּי לְךָ, וְלֹא פִּטְרֵי סוּסִים וּגְמַלִּים.

The Gemara answers: **If** it is **so** that the Torah excludes horses and camels only from redemption by means of a lamb but not from redemption in general, **let the Merciful One write: Firstborn of a donkey you shall redeem with a lamb, and: A donkey you shall redeem with a lamb,** which would suffice. **Why do I** need the verse to state: "**A firstborn of a donkey you shall redeem with a lamb,**" "**a firstborn of a donkey you shall redeem with a lamb,**" using the same phrase both times? It is necessary to teach that **I said to you** that firstborn status applies only to **firstborns of donkeys, but not** to **firstborns of horses or camels.**

וְתַנָּא דִּידָן לְמַעוּטֵי סוּסִים וּגְמַלִּים מְנָא לֵיהּ?

The Gemara asks: **And** as for **the *tanna* of our** mishna, who derived from the repetition of the phrase "firstborn of a donkey" that the mitzva of redeeming a firstborn donkey applies only if the mother and offspring are both donkeys, **from where does he** derive that the Torah **excludes horses and camels** from firstborn status?

אָמַר רַב פַּפָּא: "כָּל מִקְנְךָ תִּזָּכָר" – כְּלָל, "שׁוֹר וְשֶׂה וַחֲמוֹר" – פְּרָט; כְּלָל וּפְרָט – אֵין בַּכְּלָל אֶלָּא מַה שֶּׁבַּפְּרָט, שׁוֹר וְשֶׂה וַחֲמוֹר – אִין, מִידֵי אַחֲרִינָא – לָא.

Rav Pappa said it is derived from the verse: "From all your livestock you shall take the males, the firstborn of the ox and lamb. And the firstborn of a donkey you shall redeem with a lamb" (Exodus 34:19–20). The phrase "**From all your livestock you shall take the males**" is **a generalization,** and the reference to **an ox and a lamb and a donkey** is **a detail.** According to the principles of exegesis, in the case of **a generalization and a detail,**[B] **the generalization** is referring **only** to **that which** is specified **in the detail.** Therefore, **an ox and a lamb and a donkey, yes,** their offspring have firstborn status, but **anything else, no,** it does not have firstborn status.

BACKGROUND

Item that was included in a generalization but emerged from the generalization to teach – דָּבָר שֶׁהָיָה בִּכְלָל וְיָצָא מִן הַכְּלָל לְלַמֵּד: This hermeneutical principle is occasionally employed by the Gemara to broaden the application of a *halakha* stated in a verse. For example, the Torah states that it is prohibited to perform labor on Shabbat, which is a generalization. The Torah then states specifically that it is prohibited to kindle fire on Shabbat, a prohibition that emerged from the generalization (see Exodus 35:2–3). The Talmud derives that like the labor of kindling, each primary category of labor on Shabbat is prohibited independently, and consequently, one who performs different categories of labor on Shabbat is liable for each of them.

A generalization and a detail – כְּלָל וּפְרָט: When a generalization in the Torah is followed by its details, the assumption is that the generalization refers only to that which was specified in the details. For example, the Torah states that burnt offerings may be brought: "From animals, from the herd, and from the flock" (Leviticus 1:2). Although the term "animals" is a general one that includes the herd and flock, since these details were listed after the generalization, it may be derived that only animals from the herd and flock may be sacrificed as burnt offerings, and not other animals. Consequently, the generalization is necessary only to prevent drawing an analogy from the herd and flock to include other animals.

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HALAKHA

פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר: The firstborn of a cow that looks like a donkey of sorts but also has some characteristics of a cow is given to a priest, since donkeys are also subject to firstborn status (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:6, and see *Kesef Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 315:6).

חֲמוֹר שֶׁיָּלְדָה מִין סוּס: The Rambam rules that if a donkey gave birth to a firstborn horse of sorts that also has some characteristics of a donkey, the offspring has firstborn status. The *Shulḥan Arukh*, citing the Rosh, rules that its status is uncertain, as the dilemma in the Gemara was not resolved. Therefore, the owner must separate a lamb in exchange for the firstborn, but he may keep the lamb for himself (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:18, and see *Kesef Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 315:6).

וְרַבִּי יוֹסֵי הַגְּלִילִי: ״פֶּטֶר״ הִפְסִיק הָעִנְיָן. וְרַבָּנַן: וְי״ו הֶדֵּר עָרְבִיהּ קְרָא.

The Gemara asks: **And** as for **Rabbi Yosei HaGelili,** how does he respond to this claim? The Gemara answers: He holds that a donkey is not included in the generalization "From all your livestock you shall take the males," as the word **"firstborn"** in the phrase "and the firstborn of a donkey," indicates that the Torah **interrupts the matter,** i.e., the list of details. The Gemara asks: **And** as for **the Rabbis,** how do they respond to this claim? The Gemara answers: The letter ***vav*,** meaning "and," in the phrase "and the firstborn of a donkey," indicates that **the verse returns** and **combines** the donkey with the other animals as having firstborn status.

וְרַבִּי יוֹסֵי הַגְּלִילִי: לָא לִכְתּוֹב לָא וָי״ו וְלָא ״פֶּטֶר״.

The Gemara asks: **And** as for **Rabbi Yosei HaGelili,** how does he respond? The Gemara answers: He holds that if the donkey was indeed included in the delineation of the other animals that follows the generalization, the Torah **would write neither** the letter ***vav*** **nor** the word **"firstborn,"** and it still would be included.

וְרַבָּנַן: אַיְידֵי דְּהָא קְדוּשַׁת דָּמִים וְהָא קְדוּשַׁת הַגּוּף – פָּסֵיק לְהוּ, וְהֶדֵּר עָרֵיב לְהוּ.

The Gemara asks: **And** as for **the Rabbis,** how do they respond to this claim? The Gemara answers: **Since this,** a firstborn donkey, has **sanctity** that inheres in its **value** and must be redeemed by means of a lamb, **and that,** a firstborn ox and lamb, possess **inherent sanctity** and are sacrificed upon the altar, the word "firstborn" must **interpose** between **them, and** the verse must **combine them again** with the letter *vav* for "and," which indicates that a donkey is also included in the delineation that defines the generalization "From all your livestock you shall take the males."

אִיבַּעְיָא לְהוּ: פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר וְיֵשׁ בּוֹ מִקְצָת סִימָנִין, מַהוּ?

§ The Gemara previously cited the mishna (16b) that rules that a ewe that gave birth to a goat of sorts and a goat that gave birth to a ewe of sorts are exempt from the mitzva of the firstborn. And if the offspring has some of the characteristics of its mother, it is subject to the obligations of firstborn status. **A dilemma was raised before** the Sages about a related matter: In the case of a **cow that gave birth to a donkey of sorts,**[H] where the mishna (5b) ruled that the offspring does not have firstborn status, **and it has some of the characteristics** of the mother, **what is** the *halakha*?

עֵז שֶׁיָּלְדָה מִין רָחֵל וְרָחֵל שֶׁיָּלְדָה מִין עֵז, דְּכִי יֵשׁ מִקְצָת סִימָנִין – חַיֶּיבֶת בִּבְכוֹרָה, דְּהָא טְהוֹרָה וְהָא טְהוֹרָה, הָא קְדוּשַׁת הַגּוּף וְהָא קְדוּשַׁת הַגּוּף.

The Gemara explains the dilemma: When the mishna states with regard to **a goat that gave birth to a ewe of sorts and a ewe that gave birth to a goat of sorts, that when it has some of the characteristics** of the mother, it **is obligated,** i.e., subject to the obligations **of firstborn** status, perhaps this is because a ewe and a goat are somewhat similar; **as this** one is **a kosher** animal **and that** one is **a kosher** animal. Likewise, **this** one has **inherent sanctity** and may be sacrificed on the altar, **and that** one has **inherent sanctity.**

הָכָא, דְּהָא טְמֵאָה וְהָא טְהוֹרָה, הָא קְדוּשַׁת הַגּוּף וְהָא קְדוּשַׁת דָּמִים – לָא, אוֹ דִלְמָא: כֵּיוָן דְּאִידִי וְאִידִי בְּנֵי מִיקְּדֵשׁ בִּבְכוֹרָה – קָדוֹשׁ?

But **here,** in the case of a cow that gave birth to a donkey of sorts, perhaps the *halakha* would be different, **as this,** the offspring, resembles **a non-kosher** animal, **and that,** the mother, is **a kosher** animal. Likewise, the firstborns of **this** species, the cow, possess **inherent sanctity, and** the firstborns of **that** species, the donkey, have **sanctity** that inheres in its **value.** Therefore, perhaps the offspring does **not** have firstborn status, even if it has some of the characteristics of the mother. **Or perhaps** it can be reasoned that **since** both **this** cow **and that** donkey are **sanctified with firstborn** status, the offspring is **sanctified** with firstborn status.

וְאִם תִּמְצֵי לוֹמַר: כֵּיוָן דְּאִידִי וְאִידִי מִיקְּדֵשׁ בִּבְכוֹרָה – קָדוֹשׁ, חֲמוֹר שֶׁיָּלְדָה מִין סוּס מַהוּ? הָכָא וַדַּאי לָא בַּת מִיקְּדֵשׁ בִּבְכוֹרָה הִיא, אוֹ דִלְמָא: כֵּיוָן דְּמִין טְמֵאָה הִיא – קָדוֹשׁ?

And if you say that **since** both **this** cow **and that** donkey are **sanctified with firstborn** status, the offspring is also **sanctified** with firstborn status if it has some characteristics of the mother, then **what is** the *halakha* in a case of **a donkey that gave birth to a horse of sorts?**[H] Perhaps **here** the offspring **certainly** does not have firstborn status, as a horse **is not sanctified with firstborn** status. **Or perhaps** one can reason that **since** the mother **is** a member of **a non-kosher species,** as is the offspring, the the offspring should be **sanctified** with firstborn status, as it has some characteristics of the mother, which is a donkey.

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אִם תִּמְצָא לוֹמַר: כֵּיוָן דְּמִין טְמֵאָה הוּא – קָדוֹשׁ, פָּרָה שֶׁיָּלְדָה מִין סוּס, מַהוּ? הָכָא וַדַּאי הָא טְהוֹרָה וְהָא טְמֵאָה, הָא בַּת מִיקְדָּשׁ בִּבְכוֹרָה וְהָא לָא בַּת מִיקְדָּשׁ בִּבְכוֹרָה, אוֹ דִלְמָא: סִימָנִין מִילְּתָא הִיא?

The Gemara raises an additional dilemma about a related case: **If you say** in the previous case that **since it is a non-kosher species** it is **sanctified,** then **what is** the *halakha* in the case of **a cow that gave birth to a horse of sorts?**[H] **Here,** one can say there **certainly** is no reason for the offspring to have firstborn status, as **this** cow is **kosher and that** horse is **non-kosher.** And in addition, **this** cow is **sanctified with firstborn** status **and that** horse is **not sanctified with firstborn** status. **Or perhaps** one can reason that having some of the **characteristics** of the mother **is** a significant **matter** and the offspring does have firstborn sanctity.

תָּא שְׁמַע: בְּהֵמָה טְהוֹרָה שֶׁיָּלְדָה מִין בְּהֵמָה טְמֵאָה – פְּטוּרָה מִן הַבְּכוֹרָה, אִם יֵשׁ בּוֹ מִקְצָת סִימָנִין – חַייֶבֶת בִּבְכוֹרָה. מַאי לָאו, אֲפִילּוּ פָּרָה שֶׁיָּלְדָה מִין סוּס? לָא, פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר.

The Gemara suggests: **Come** and **hear** a proof from a *baraita*: **A kosher animal that gave birth to a non-kosher animal of sorts is exempt from** its offspring being counted **a firstborn. If** the offspring **has some of the characteristics** of the mother it **is obligated,** i.e., subject to the obligations of **firstborn** status. **What,** does this **not** include **even** the case of **a cow that gave birth to a horse of sorts? No,** it is referring to a case such as where **a cow that gave birth to a donkey of sorts,** where both species are subject to the sanctity of the firstborn.

תָּא שְׁמַע: פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר, וַחֲמוֹר שֶׁיָּלְדָה מִין סוּס – פְּטוּרָה מִן הַבְּכוֹרָה, אִם יֵשׁ בּוֹ מִקְצָת סִימָנִין – חַייֶבֶת בִּבְכוֹרָה. מַאי לָאו אַתְּרוַיְיהוּ? לָא, אַפָּרָה שֶׁיָּלְדָה מִין חֲמוֹר.

The Gemara suggests: **Come** and **hear** another proof from a *baraita*: In the case of **a cow that gave birth to a donkey of sorts or a donkey that gave birth to a horse of sorts,** each of the mothers is **exempt from** their offspring being counted **a firstborn. If** the offspring **has some of the characteristics** of the mother, it is **obligated,** i.e., subject **to** the obligations of **firstborn** status. **What,** is the last clause **not** referring **to both** cases of the *baraita*? If so, this resolves two of the dilemmas about offspring that have some characteristics of the mother. The Gemara responds: **No,** it is referring only **to** the case of **a cow that gave birth to a donkey of sorts,** so only that dilemma is resolved.

אֲבָל חֲמוֹר שֶׁיָּלְדָה מִין סוּס לְמַאי קָתָנֵי לָהּ – לִפְטוּרָא? פְּשִׁיטָא! הָשְׁתָּא, וּמַה פָּרָה שֶׁיָּלְדָה מִין חֲמוֹר, דְּאִידִי וְאִידִי בְּנֵי מִיקְדָּשׁ בִּבְכוֹרָה נִינְהוּ, אָמְרַתְּ: אִם יֵשׁ בּוֹ מִקְצָת סִימָנִין – אֵין, וְאִי לָא – לָא, חֲמוֹר שֶׁיָּלְדָה מִין סוּס מִיבָּעֲיָא?

The Gemara asks: **But** if so, **for what** purpose does the *baraita* **teach** the case of **a donkey that gave birth to a horse of sorts?** If it is **to exempt** the offspring from being accounted firstborn status when it does not have some of the characteristics of its mother, that *halakha* is **obvious** for the following reason: **And now,** if in the case of **a cow that gave birth to a donkey of sorts, where** both **this** species **and that** species **are sanctified with firstborn** status, **you said** that **if** the offspring **has some of the characteristics** of its mother then **yes,** it has firstborn status, **and if** it does **not** have such characteristics, then **no,** the offspring does not have firstborn status, then in the case of **a donkey that gave birth to a horse of sorts,** which generally is not sanctified with firstborn status, **is** it **necessary** to state that the horse does not have firstborn status unless it has some of the characteristics of its mother?

אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ: הָתָם הוּא דְּלֵישׁ לָהּ קַרְנַיִם וְהָא אֵין לָהּ קַרְנַיִם, הָא פַּרְסוֹתֶיהָ סְדוּקוֹת וְהָא פַּרְסוֹתֶיהָ קְלוּטוֹת.

The Gemara answers: It **was necessary** to teach that case in addition to that of a cow that gave birth to a donkey of sorts, as it might **enter your mind** that **there,** in the case of the cow that gave birth to a donkey of sorts, the offspring does not have firstborn status because a cow and donkey are entirely different from one another, **as** a cow **has horns, and this** animal, a donkey, **does not have horns.** Moreover, with regard to **that** animal, a cow, **its hooves are split, but** with regard to **this** animal, a donkey, **its hooves are closed** [***kelutot***].[BL]

אֲבָל הָכָא, דְּאִידִי וְאִידִי אֵין לָהּ קַרְנַיִם, אִידִי וְאִידִי פַּרְסוֹתֶיהָ קְלוּטוֹת – אֵימָא: חֲמוֹר אָדוֹם בְּעָלְמָא הוּא, קָמַשְׁמַע לָן.

But here, in the case of a donkey that gave birth to a horse of sorts, where a similarity does exist between the mother and its offspring, **as this** one **and that** one both **do not have horns,** and with regard to both **this** one **and that** one **its hooves are closed, I can say** that this offspring **is merely a red donkey,**[B] i.e., a donkey with the coloring of a horse, and has firstborn status. Therefore, the *tanna* **teaches us** that it is a different species from that of the mother, and does not have firstborn status.

HALAKHA

Cow that gave birth to a horse of sorts – פָּרָה שֶׁיָּלְדָה מִין סוּס: If a cow gave birth to a firstborn horse or camel of sorts, although the offspring has some characteristics of a cow, it status is uncertain, as the Gemara's dilemma with regard to this matter was not resolved. Therefore, it may be eaten by the owners, although it is prohibited to cut its hair and perform labor with it (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:6; *Shulḥan Arukh*, *Yoreh De'a* 315:6).

BACKGROUND

Split and closed – סָדוּק וְקָלוּט: The hooves of a cow are split over their entire length. By contrast, the hooves of a donkey are closed, meaning that they are round without any split in the middle.



Hooves of a cow



Hoof of a horse

Donkey and horse – חֲמוֹר וְסוּס: Although some wild donkeys and some breeds of modern domesticated donkeys are brown, in the times of the mishna and Gemara, most domesticated donkeys found in Eretz Yisrael and the surrounding areas were black, white, or gray. Many domesticated horses did look reddish-brown.

LANGUAGE

Closed [*kalut*] – קָלוּט: In this context the word means attached or covered. There might be a link between *kalut* and *miklat*, refuge, which refers to a closed location that may be used for hiding.

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״וּמָה הֵן בַּאֲכִילָה״ כו׳. לָמָּה לִי לְמֵימַר ״שֶׁהַיּוֹצֵא״?

§ The mishna teaches with regard to an animal whose offspring resembles a different species: **And what** is the offspring's halakhic status **with regard to** its **consumption?** In the case of a kosher animal that gave birth to a non-kosher animal of sorts, its consumption is permitted. And in the case of a non-kosher animal that gave birth to a kosher animal of sorts, its consumption is prohibited. This is because that which emerges from the non-kosher animal is non-kosher and that which emerges from the kosher animal is kosher. The Gemara asks: **Why do I** need the mishna **to teach** the concluding phrase: This is **because that which emerges** from the non-kosher animal is non-kosher and that which emerges from the kosher animal is kosher?

סִימָנָא בְּעָלְמָא הוּא, דְּלָא תִּיחֲלוֹף לָךְ, דְּלָא תֵּימָא: זִיל בַּתְרֵיהּ דִּידֵיהּ, וְהַאי – טָהוֹר מְעַלְיָא הוּא, וְהַאי – טָמֵא מְעַלְיָא הוּא, אֶלָּא זִיל בָּתַר אִימֵּיהּ.

The Gemara answers: It **is merely a mnemonic** to ensure **that you do not** mistakenly **reverse** the *halakha* in these two cases, so **that you do not say: Follow its** appearance, **and** therefore **this** offspring that looks like a kosher animal is **a full-fledged kosher** animal, despite being born to a non-kosher animal; **and that** one that looks like a non-kosher animal **is a full-fledged non-kosher** animal, despite its mother being a kosher animal. **Rather,** the mishna teaches that one must **follow** the status of **its mother.**

מְנָא הָנֵי מִילֵּי? דְּתָנוּ רַבָּנַן: ״אַךְ אֶת זֶה לֹא תֹאכְלוּ מִמַּעֲלֵי הַגֵּרָה וּמִמַּפְרִיסֵי הַפַּרְסָה״ – יֵשׁ לְךָ שֶׁהוּא מַעֲלֵה גֵּרָה וּמַפְרִיס פַּרְסָה, וְאִי אַתָּה אוֹכְלוֹ, וְאֵיזֶה זֶה – טָהוֹר שֶׁנּוֹלַד מִן הַטָּמֵא. אוֹ אֵינוֹ אֶלָּא טָמֵא הַנּוֹלָד מִן הַטָּהוֹר, וּמַאי ״מִמַּעֲלֵי הַגֵּרָה וּמִמַּפְרִיסֵי הַפַּרְסָה״

The Gemara asks: **From where are these matters** derived? The Gemara answers: They are derived from a verse, **as the Sages taught** that when the verse states: "**Nevertheless these shall you not eat, of them that chew the cud, or of them that split the hoof**" (Leviticus 11:4), this verse indicates that **you have** an animal **that chews the cud and has split hooves, but** nevertheless **you may not eat it. And which is this?** It is **a kosher** animal **that was born from a non-kosher** animal. **Or** perhaps it excludes **only a non-kosher** animal that does not chew the cud or have split hooves **that was born from a kosher** animal, **and** if so **what** is the explanation of the verse "**of them that chew the cud, or of them that split the hoof**"**?**

Perek **I**
Daf **6** Amud **b**

הָכִי קָאָמַר: דָּבָר הַבָּא מִמַּעֲלֵי הַגֵּרָה וּמִמַּפְרִיסֵי הַפַּרְסָה לָא תֵּיכוֹל! תַּלְמוּד לוֹמַר: ״גָּמָל…טָמֵא הוּא״ – הוּא טָמֵא, וְאֵין טָמֵא הַנּוֹלָד מִן הַטָּהוֹר טָמֵא, אֶלָּא טָהוֹר.

This is what it **is saying: You shall not eat a being that comes from** one of those animals that **chew their cud and have split hooves** if it itself does not have the signs of being kosher. To counter this, the continuation of **the verse states: "The camel… is impure** for you" (Leviticus 11:4). This indicates that a camel itself **is non-kosher, but a non-kosher** animal **that is born from a kosher** animal **is not non-kosher; rather,** it is **kosher.**

רַבִּי שִׁמְעוֹן אוֹמֵר: ״גָּמָל״ ״גָּמָל״ שְׁנֵי פְּעָמִים, אֶחָד גָּמָל הַנּוֹלָד מִן הַגְּמָלָה, וְאֶחָד גָּמָל הַנּוֹלָד מִן הַפָּרָה.

Rabbi Shimon says it is stated: "**Camel**" (Leviticus 11:4), "**camel**" (Deuteronomy 14:7), teaching the term **two times** with regard to the prohibition of consumption. This teaches that **both a camel that is born from a camel and a camel that is born from a cow** are non-kosher. According to Rabbi Shimon, a non-kosher animal born to a kosher animal is forbidden for consumption, in contrast to the ruling in the mishna.

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וְרַבָּנַן, הַאי ״גָּמָל״ ״גָּמָל״ מַאי עָבְדִי לֵיהּ? חַד לְאֶסּוֹר עַצְמוֹ, וְחַד לְאֶסּוֹר חֲלָבוֹ. וְרַבִּי שִׁמְעוֹן, לְאֶסּוֹר חֲלָבוֹ מְנָא לֵיהּ? נָפְקָא לֵיהּ מֵ״אֶת הַגָּמָל״. וְרַבָּנַן? ״אֶתִּים״ לָא דָּרְשִׁי.

The Gemara asks: **And** as for **the Rabbis** in the *baraita*, who disagree with Rabbi Shimon, **what do they do with this** repetition of **"camel," "camel"?** The Gemara answers that **one** of the verses is written **to prohibit** the camel **itself and one** is written **to prohibit** the female camel's **milk.** The Gemara asks: **And** as for **Rabbi Shimon, from where does he** derive that a camel's **milk is forbidden?** The Gemara answers: **He derives it from** the phrase **"the camel** [***et hagamal***]**."**[N] The verse could have stated just the term "*hagamal*." The addition of the word "*et*" teaches that the prohibition applies also to its milk. **And the Rabbis do not interpret instances of "*et*"** as a means to derive new *halakhot*; they consider it to be an ordinary part of the sentence structure and not a source for exegetical exposition.

כִּדְתַנְיָא: שִׁמְעוֹן הָעֲמָסוֹנִי הָיָה דּוֹרֵשׁ כָּל ״אֶת״ וְ״אֶת״ שֶׁבַּתּוֹרָה, כֵּיוָן שֶׁהִגִּיעַ לְ״אֶת ה׳ אֱלֹהֶיךָ תִּירָא״ – פֵּירַשׁ. אָמְרוּ לוֹ תַּלְמִידָיו: רַבִּי, כָּל ״אֶתִּין״ שֶׁדָּרַשְׁתָּ מַה תְּהֵא עֲלֵיהֶם? אָמַר לָהֶם: כְּשֵׁם שֶׁקִּבַּלְתִּי שָׂכָר עַל הַדְּרִישָׁה – כָּךְ אֲנִי מְקַבֵּל שָׂכָר עַל הַפְּרִישָׁה.

As it is taught in a *baraita*: **Shimon HaAmasoni would interpret each and every** occurrence of the word "***et*" in the Torah,** deriving additional *halakhot* with regard to the particular subject matter. **Once he reached** the verse: "**You shall fear the Lord your God**" (Deuteronomy 6:13), which is written with the added word "*et*," **he withdrew**[N] from this method of exposition, as whose fear could be an extension of the fear of God? **His students said to him: Our teacher, what will be with all** the occurrences of "*et*" **that you interpreted** until now? Shimon HaAmasoni **said to them: Just as I received reward for the exposition, so I receive reward for** my **withdrawal** from using this method of exposition.

עַד שֶׁבָּא רַבִּי עֲקִיבָא וְלִימֵּד: ״אֶת ה׳ אֱלֹהֶיךָ תִּירָא״ – לְרַבּוֹת תַּלְמִידֵי חֲכָמִים.

The word "*et*" in this verse was not explained **until Rabbi Akiva came and taught: "You shall fear the Lord your God";** the word "*et*" in the verse serves **to include Torah scholars,**[HN] i.e., that one is commanded to fear them just as one fears God. In any event, Shimon HaAmasoni no longer derived additional *halakhot* from "*et*." The Rabbis follow the conclusion of Shimon HaAmasoni that "*et*" is not expounded.

אָמַר לֵיהּ רַב אַחָא בְּרֵיהּ דְּרָבָא לְרַב אַשִׁי: אֶלָּא מֵעַתָּה, טַעֲמָא דְּרַבָּנַן מִ״גָּמָל״ ״גָּמָל״, וְרַבִּי שִׁמְעוֹן מֵ״אֶת הַגָּמָל״, הָא לָאו הָכִי הֲוָה אָמִינָא: חָלָב דִּבְהֵמָה טְמֵאָה שָׁרֵי?

Rav Aḥa, son of Rava, said to Rav Ashi: If that is so, that **the reason of the Rabbis** for the *halakha* that a camel's milk is forbidden is that it is derived **from** the words "**camel,**" "**camel,**" written twice, **and Rabbi Shimon** derives it **from "the camel** [***et hagamal***]**,"** then could it be reasoned **that** if **not** for **this** derivation **I would say** that **milk of a non-kosher animal is permitted?**

מַאי שְׁנָא מֵהָא דְּתַנְיָא: ״הַטְּמֵאִים״ – לְאֶסּוֹר צֵירָן וְרוֹטְבָן וְקִיפָּה שֶׁלָּהֶן?

In **what** way **is** this case **different from that which is taught** in a *baraita*: The Torah states with regard to the prohibition against eating creeping animals: "These are they **that are impure** [***hateme'im***] to you among all the creeping animals" (Leviticus 11:31). The Sages interpret the letter *heh* in the term "that are impure [*hateme'im*]" **to prohibit their juice** that oozes from their body **and their gravy**[H] that is produced when they are cooked, **and sediments** of **their** flesh that congeal at the bottom of the dish when cooked. Evidently, any liquid that emerges from a non-kosher animal is forbidden.

HALAKHA

To include Torah scholars – לְרַבּוֹת תַּלְמִידֵי חֲכָמִים: There is no greater honor than the honor that is to be given to a teacher of Torah, and no greater fear than the fear one must demonstrate before him; as the verse equates the fear of a teacher of Torah with the fear of Heaven (Rambam *Sefer HaMadda*, *Hilkhot Talmud Torah* 5:1; *Shulḥan Arukh*, *Yoreh De'a* 242:1–2).

Their juice and their gravy – צֵירָן וְרוֹטְבָן: The juice that oozes from a domesticated animal or an undomesticated animal that is either non-kosher or a *tereifa* is forbidden just like its meat (see Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 15:34; *Shulḥan Arukh*, *Yoreh De'a* 81:1, and see 70:3).

NOTES

The camel [*et hagamal*] – אֶת הַגָּמָל: Rashi explains, in accordance with the explanation given elsewhere in the Talmud (see *Berakhot* 36b), that this interpretation does not stem from the fact that the word "*et*" is superfluous. Rather, the word "*et*" itself refers to an item that is secondary to and joined to the camel, i.e., its milk.

Once he reached the verse: You shall fear the Lord your God, he withdrew – כֵּיוָן שֶׁהִגִּיעַ לְאֶת ה׳ אֱלֹהֶיךָ תִּירָא פֵּירַשׁ: The warning of the verse itself to fear God caused him to refrain from equating the fear of God to the fear of anything else (Maharsha on *Bava Kamma* 41b, explaining Rashi). Some early commentaries note that Shimon HaAmasoni did not withdraw from this method of exposition when he reached the earlier verse: "And you shall love the Lord your God" (Deuteronomy 6:5), which also has the word "*et*." This is because a distinction exists between loving God, which he understood can be extended to apply to loving Torah scholars and can lead to loving other humans as well, and fearing God, which results from God's ability to mete out reward and punishment (Maharsha on *Pesaḥim* 22b).

To include Torah scholars – לְרַבּוֹת תַּלְמִידֵי חֲכָמִים: Torah scholars are intimately connected to and bound with God and His Torah, and so it is fitting to compare the fear of them to the fear of God, as the mishna states: The fear of your teacher of Torah should be like the fear of Heaven (*Avot* 4:12).

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BACKGROUND

Blood is spoiled and becomes milk – דָּם נֶעְבָּר וְנַעֲשָׂה חָלָב: Milk, similar to other glandular secretions, is produced when the cells in the milk gland synthesize ingredients received from the bloodstream, such as calcium, protein, fats, and sugar. The accepted figure with regard to most dairy animals is that 500 ℓ of blood must pass through the udders in order to produce 1 ℓ of milk. This connection between the bloodstream and the milk is the basis for the Gemara's reasoning as to why nursing women do not menstruate.

Her limbs become disjointed – אֵיבָרֶיהָ מִתְפָּרְקִין: According to this explanation, the absence of a menstrual cycle in a nursing woman is caused by the pressure imposed on the body due to the birth and nursing. Since this woman expends more energy than she brings in the result is that her reproductive system does not function; her uterine lining is not developed; and she does not experience her menstrual cycle, which occurs when the tissue of the uterine lining disintegrates if pregnancy has not been effected.

Various studies have shown that women or female animals with a healthy diet return to their normal menstrual cycle more quickly than those that do not.

HALAKHA

The milk of a non-kosher animal – חֲלֵב בְּהֵמָה טְמֵאָה: The milk of a domesticated animal or undomesticated animal that is either non-kosher or a *tereifa* is forbidden, just like its meat (*Shulḥan Arukh*, *Yoreh De'a* 81:1).

It is derived from the fact that the Merciful One prohibits meat that was cooked in milk – מִדְּאָסַר רַחֲמָנָא בָּשָׂר בְּחָלָב: It is forbidden by Torah law to cook, consume, or derive benefit from meat cooked in milk (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 9:1; *Shulḥan Arukh*, *Yoreh De'a* 87:1).

אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל דִּבְהֵמָה טְהוֹרָה נַמִּי חִידּוּשׁ הוּא, דְּאָמַר מָר: דָּם נֶעְבָּר וְנַעֲשָׂה חָלָב, וְכֵיוָן דְּחִידּוּשׁ הוּא – בְּבְהֵמָה טְמֵאָה נַמִּי לִישְׁתְּרִי, קָא מַשְׁמַע לָן.

Rav Ashi responded: The additional exposition to derive that camel's milk is forbidden **was necessary,** because it might **enter your mind to say** it may be permitted, **since** the permissibility of consumption of the milk **of a kosher animal is also a novelty.** The milk originates from the blood, which is forbidden for consumption, **as the Master said** that the reason a nursing woman does not experience menstruation is because **the blood is spoiled and becomes milk.**[B] **Since it is a novelty** that the Torah permits milk despite its origins, it might enter your mind to say that **with regard to a non-kosher animal it should also be permitted.** Therefore, the verse **teaches us** that it is forbidden.

הָנִיחָא לְמַאן דְּאָמַר: דָּם נֶעְבָּר וְנַעֲשָׂה חָלָב. אֶלָּא לְמַאן דְּאָמַר: אֵיבָרֶיהָ מִתְפָּרְקִין הֵימָנָּה, וְאֵין נַפְשָׁהּ חוֹזֶרֶת עָלֶיהָ עַד עֶשְׂרִים וְאַרְבָּעָה חֹדֶשׁ, מַאי אִיכָּא לְמֵימַר?

The Gemara challenges: **This works out well according to the one who says** that a nursing woman does not menstruate because **the blood is spoiled and becomes milk. But according to the one who says** that the milk does not originate from blood, but rather the reason she does not menstruate is because **her limbs become disjointed**[B] **and her soul,** i.e., her health, **does not return to her until twenty-four months** later, **what is there to say?** Why does the Torah employ a verse to render forbidden the milk of a non-kosher animal?

אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וְלֵיכָּא מִידֵּי דְּאָתֵי מֵחַי וְשָׁרְיֵיהּ רַחֲמָנָא, וְהַאי חָלָב כִּי אֵבֶר מִן הַחַי הוּא וְשָׁרֵי, וְהֵילְכָךְ אֲפִילּוּ בִּבְהֵמָה טְמֵאָה לִישְׁתְּרִי, קָא מַשְׁמַע לָן.

The Gemara answers: It **was necessary,** because it might **enter your mind to say** it may be permitted; **since** generally speaking **there is nothing that comes from a living** animal **that the Merciful One permits, and** yet **this milk** of a kosher animal **is similar to a limb** severed **from the living and is** nevertheless **permitted,** the permissibility of milk is a novelty of the Torah. **And consequently** it might enter your mind to say that **even** the milk **of a non-kosher animal**[H] **should be permitted** in line with that novelty. Therefore, the verse **teaches us** that it is forbidden.

וְחָלָב דִּבְהֵמָה טְהוֹרָה מְנָלַן דְּשָׁרֵי? אִילֵּימָא מִדְּאָסַר רַחֲמָנָא בָּשָׂר בְּחָלָב, הָא לְחוּדֵיהּ שָׁרֵי – וְאִימָּא: חָלָב לְחוּדֵיהּ אָסוּר בַּאֲכִילָה וּמוּתָּר בַּהֲנָאָה, בָּשָׂר בְּחָלָב – בַּהֲנָאָה נַמִּי אָסוּר,

§ The Gemara asks: **And from where do we** derive **that the milk of a kosher animal is** in fact **permitted? If we say** that it is derived **from** the fact **that the Merciful One prohibits** eating **meat** that was cooked **in milk,**[H] indicating **that** milk **by itself is permitted,** one can reject this proof **and say** that **milk alone is forbidden** only **for consumption but permitted with regard to** deriving **benefit** from it. By contrast, **meat** that was cooked **in milk is forbidden with regard to** deriving **benefit** from it **as well.**

וּלְרַבִּי שִׁמְעוֹן דְּשָׁרֵי בַּהֲנָאָה מַשְׁכַּחַתְּ לָהּ – לְמֵילְקֵי עַל בִּישׁוּלֵיהּ!

And according to Rabbi Shimon, who deems meat that was cooked in milk **permitted with regard to** deriving **benefit** from it, **you find** a reason for the Torah to mention the prohibition of meat and milk together, even if milk alone is forbidden as well, and that is in order to render one liable **to receive lashes for cooking them** together, which would not apply to cooking milk alone.

אֶלָּא, מִדְּגַלֵּי רַחֲמָנָא דִּבְפָסוּלֵי הַמּוּקְדָּשִׁין "תִּזְבַּח" וְלֹא גִּיזָּה, "בָּשָׂר" וְלֹא חָלָב, הָא דְּחוּלִּין – שָׁרֵי.

Rather, one can prove that milk is permitted for consumption **since the Merciful One revealed that with regard to disqualified consecrated** animals that were redeemed: "You may slaughter and eat meat" (**Deuteronomy 12:15**). This verse is interpreted in the following manner: "**You may slaughter,**" **but** you may **not** use its wool from **shearing.** You may eat its "**meat,**" **but** you may **not** consume its **milk.** It can be inferred from here that milk **of non-sacred** kosher animals is **permitted.**

וְאִימָּא דְּחוּלִּין – אָסוּר בַּאֲכִילָה וְשָׁרֵי בַּהֲנָאָה, דְּקָדָשִׁים – בַּהֲנָאָה נַמִּי אָסוּר!

The Gemara rejects this proof: **But** one could **say** the distinction between non-sacred milk and milk from sacrificial animals is not with regard to the permissibility of consumption. Rather, milk **of non-sacred** animals **is forbidden for consumption but is permitted with regard to** deriving **benefit** from it, but the milk **of sacrificial** animals is **forbidden with regard to** deriving **benefit as well.**

אֶלָּא מִדִּכְתִיב: "וְדֵי חֲלֵב עִזִּים לְלַחְמֶךָ לְלֶחֶם בֵּיתֶךָ וְחַיִּים לְנַעֲרוֹתָיִךְ".

Rather, proof may be brought that milk is permitted **from** the fact **that it is written: "And there will be goats' milk enough for your food, for the food of your household, and maintenance for your maidens"** (Proverbs 27:27). According to the verse, goats' milk serves as food, and therefore must be kosher.

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וְדִילְמָא לִסְחוֹרָה! אֶלָּא מִדִּכְתִיב: ״וְאֵת עֲשֶׂרֶת חֲרִיצֵי הֶחָלָב״.

The Gemara rejects the proof: **But perhaps** the verse is referring **to** selling the milk as **merchandise** and using the money to buy food, and not to consuming the milk itself. **Rather,** proof may be brought **from** the fact **that it is written** with regard to Jesse's instructions to his son David upon sending him with provisions for his brothers, who were at war against the Philistines: **"And these ten cheeses** you shall bring to the captain of their thousand" (1 Samuel 17:18), which indicates they ate dairy products.

וְדִילְמָא לִסְחוֹרָה! אַטּוּ דַּרְכָּהּ שֶׁל מִלְחָמָה לִסְחוֹרָה?

The Gemara rejects this proof as well: **But perhaps** this verse too means the captain can sell the cheese **as merchandise.** The Gemara responds: **Is that to say** that it is **the norm during war to** engage in **commerce?** Clearly the cheese was meant for consumption, which proves it is permitted to eat dairy products.

וְאִיבָּעֵית אֵימָא מֵהָכָא: ״אֶרֶץ זָבַת חָלָב וּדְבַשׁ״, וְאִי לָא דְּשָׁרֵי – מִשְׁתַּבַּח לָן קְרָא בְּמִידֵּי דְּלָא חֲזִי? וְאִיבָּעֵית אֵימָא מֵהָכָא: ״לְכוּ שִׁבְרוּ וֶאֱכֹלוּ וּלְכוּ שִׁבְרוּ בְּלֹא כֶסֶף וּבְלֹא מְחִיר יַיִן וְחָלָב״.

And if you wish, say instead that proof may be brought **from here:** The Torah praises Eretz Yisrael as: **"A land flowing with milk and honey"** (Exodus 3:17), **and if** milk **was not permitted, would the verse praise** the land **to us with an item that is not suitable** for consumption? **And if you wish, say** instead a proof **from here: "Come, buy, and eat; and come, buy wine and milk without money and without price"** (Isaiah 55:1).

אֶלָּא מֵעַתָּה, ״שָׁפָן״ ״שָׁפָן״, ״אַרְנֶבֶת״ ״אַרְנֶבֶת״, ״חֲזִיר״ ״חֲזִיר״ לְהֲנֵי הוּא דְּאָתוּ?

§ The Gemara returns to the dispute between Rabbi Shimon and the Rabbis, who interpret the repetition of the word "camel" as indicating the prohibitions against eating a camel born from a cow and consuming its milk, respectively, and asks: **But if that is so,** that the repetition indicates these *halakhot,* then with regard to the words: **"Hare," "hare," "rock badger," "rock badger," "swine," "swine"** (see Leviticus 11:5–7; Deuteronomy 14:7–8), which are all mentioned twice as being forbidden, **do** these words **come to** teach **these** *halakhot* as well?

אֶלָּא לְכִדְתַנְיָא: לָמָּה נִשְׁנוּ בַּבְּהֵמָה – מִפְּנֵי הַשְּׁסוּעָה, וּבָעוֹפוֹת – מִפְּנֵי הָרָאָה;

The Gemara explains: They are necessary **only for that which is taught** in a *baraita*: **Why were** all of the non-kosher animals and birds **repeated** in Deuteronomy (14:7–20), after having been mentioned already in Leviticus (11:10–20)? **With regard to the animals,** it is **because of the *shesua*** (see Deuteronomy 14:7),[NH] an animal with two backs and two spines, which is not mentioned in Leviticus, **and with regard to the birds,** it is **because of the *ra'a*** (see Deuteronomy 14:13).

״גָּמָל״ ״גָּמָל״ נַמִּי לְהָכִי הוּא דְּאָתָא! כָּל הֵיכָא דְּאִיכָּא לְמִידְרַשׁ דָּרְשִׁינַן.

The Gemara challenges: If so, then the double reference of **"camel," "camel," also comes for this** purpose of teaching about the *shesua,* and not to teach a separate *halakha* about the camel. The Gemara explains: Nevertheless, **anywhere that it is** possible **to interpret** the verse as teaching an additional *halakha,* **we interpret** it in that manner. Only where there is no possibility of such an interpretation is the concept of repeating the passage merely to introduce one additional detail invoked.

תָּנוּ רַבָּנַן: רָחֵל שֶׁיָּלְדָה מִין עֵז, וְעֵז שֶׁיָּלְדָה מִין רָחֵל – פְּטוּרָה מִן הַבְּכוֹרָה, וְאִם יֵשׁ בּוֹ מִקְצָת סִימָנִים – חַייֶבֶת. רַבִּי שִׁמְעוֹן אוֹמֵר: עַד שֶׁיְּהֵא רֹאשׁוֹ וְרוּבּוֹ דּוֹמֶה לְאִמּוֹ.

§ The Gemara discusses an additional source that cites the opinion of Rabbi Shimon: **The Sages taught** in a *baraita* that in the case of **a ewe that gave birth to a goat of sorts and a goat that gave birth to a ewe of sorts,** in each case the mother **is exempt from** its offspring being counted **a firstborn. And if it has some of the characteristics** of its mother, the mother **is obligated,** i.e., subject to accounting its offspring a firstborn. **Rabbi Shimon says:** The offspring does not have firstborn status **unless its head and the majority of** its body **are similar to** the appearance of **its mother.**

אִיבַּעְיָא לְהוּ: לַאֲכִילָה מִי בָּעֵי רַבִּי שִׁמְעוֹן רֹאשׁוֹ וְרוּבּוֹ, אוֹ לָא?

A dilemma was raised before the Sages: **With regard to** the permissibility of **eating** a non-kosher animal that was born to a kosher animal, **does Rabbi Shimon require its head and most of** its body to resemble its mother, **or not,** and possessing some of the characteristics of its mother suffices?

NOTES

The *shesua* – הַשְּׁסוּעָה: Although the interpretation of the *Sifrei*, that the word *hashesua* refers to a creature that has two backs and two spines, is accepted by all here, the *amora'im* disagree as to whether this refers to a rare creature or to a kosher animal that is found with such a fetus in its stomach, which the Torah prohibits; and certainly when the animal is born it may not be eaten, because it is not a viable offspring and has the status of a carcass (Rashi there; see *Tosafot* there for another explanation).

HALAKHA

The *shesua* – הַשְּׁסוּעָה: An animal with two backs and two spines that is born to a kosher animal is prohibited for consumption, in accordance with the opinion of Rav in *Nidda* 24a (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 1:6; *Shulḥan Arukh*, *Yoreh De'a* 13:6).

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לְעִנְיַן בְּכוֹרָה כְּתִיב: ״אַךְ בְּכוֹר שׁוֹר״ – עַד שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר, אֲבָל לַאֲכִילָה – גָּמָל הוּא דְּאָמַר רַחֲמָנָא דַּאֲסִיר, הָא

The Gemara explains: **With regard to** the *halakha* of **firstborn** status, **it is written: "But the firstborn of an ox"** (Numbers 18:17), which indicates that it does not have firstborn status **unless it is an ox and its firstborn is an ox.** If its head and most of its body do not resemble an ox, it does not have firstborn status according to Rabbi Shimon. **But with regard to consumption,** where Rabbi Shimon holds a camel born to a kosher animal is forbidden, perhaps it **is** only an ordinary-looking **camel that the Merciful One states is forbidden, but** if

Perek **I**
Daf **7** Amud **a**

NOTES

Nevertheless these shall you not eat from them that only chew the cud, or from them that only have a split hoof – אַךְ אֶת זֶה לֹא תֹאכְלוּ מִמַּעֲלֵי הַגֵּרָה וּמִמַּפְרִיסֵי הַפַּרְסָה: The derivation here is based on the fact that if the Torah wanted to teach that animals possessing only one of the indications of kosher animals are forbidden, it would have stated: "Nevertheless these shall you not eat from them that only chew the cud, or from them that only have a split hoof," without listing the specific animals. Therefore, it may be inferred that those non-kosher animals listed are unfit for consumption even if they were born to a kosher animal. This, then, is the meaning of the term "from them," indicating that these particular animals are forbidden even when born to a kosher animal that chews the cud and has split hooves (Malbim).

אִישְׁתַּנֵּי מִגָּמָל – שַׁפִּיר דָּמֵי, אוֹ דִלְמָא לָא שְׁנָא?

it **is different from** an ordinary **camel** and has some characteristics of its mother, perhaps it is **permitted** to eat it. **Or perhaps** there **is no difference,** and with regard to consumption Rabbi Shimon also requires that its head and the majority of its body resemble its mother.

תָּא שְׁמַע: בְּהֵמָה טְהוֹרָה שֶׁיָּלְדָה מִין בְּהֵמָה טְמֵאָה – אָסוּר בַּאֲכִילָה, וְאִם דּוֹמֶה רֹאשׁוֹ וְרוּבּוֹ לְאִמּוֹ – חַיָּיב בִּבְכוֹרָה. שְׁמַע מִינָּהּ: לַאֲכִילָה נַמִּי בָּעֵי רַבִּי שִׁמְעוֹן רֹאשׁוֹ וְרוּבּוֹ!

The Gemara suggests: **Come** and **hear** a proof from a *baraita*: With regard to **a kosher animal that gave birth to a non-kosher animal of sorts,** the offspring **is forbidden for consumption,** in accordance with the opinion of Rabbi Shimon; **but if its head and the majority of** its body are **similar to its mother, it is obligated in,** i.e., subject to the obligations of, **firstborn** status. **Learn from it** that **with regard to consumption, Rabbi Shimon also requires** that **its head and the majority of** its body resemble the mother.

לָא, לִבְכוֹרָה דַּוְקָא. דַּיְקָא נַמִּי, דְּקָא שַׁבְקָה לַאֲכִילָה וְקָם לֵיהּ אַבְּכוֹר, שְׁמַע מִינָּהּ: לִבְכוֹרָה הוּא דְּבָעֵי רַבִּי שִׁמְעוֹן רֹאשׁוֹ וְרוּבּוֹ, אֲבָל לַאֲכִילָה – לָא.

The Gemara rejects the proof: **No,** the requirement that its head and the majority of its body resemble the mother is relevant **specifically with regard to firstborn** status. The Gemara comments: The language of the *baraita* **is also precise, as** the *tanna* **leaves** the *halakha* of **consumption** with which he began **and addresses** the *halakha* of **firstborn** status. **Learn from it** that it **is with regard to firstborn** status **that Rabbi Shimon requires** that **its head and the majority of** its body resemble the mother, **but with regard to consumption** he does **not** require this, and even a partial similarity suffices.

לְעוֹלָם אֵימָא לָךְ: לַאֲכִילָה נַמִּי בָּעֵי, וּבְכוֹרָה אִיצְטְרִיךְ; סָלְקָא דַּעְתָּךְ אָמִינָא, הוֹאִיל וּכְתִיב: ״אַךְ בְּכוֹר שׁוֹר״ – עַד שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר, וְלָא תִּיסְגֵּי לֵיהּ בְּרֹאשׁוֹ וְרוּבּוֹ עַד דְּאִיכָּא כּוּלֵּיהּ – קָמַשְׁמַע לָן.

The Gemara rejects this conclusion as well: **Actually, I will say to you** that **with regard to** the permissibility of **consumption he also requires** that its head and the majority of its body be similar to the mother. **But** it **was necessary** to state this condition specifically with regard to the *halakha* of **firstborn** status, as it might **enter your mind to say** that **since it is written: "But the firstborn of an ox"** (Numbers 18:17), perhaps firstborn status does not apply **unless it is an ox and its firstborn is an ox, and** a resemblance **of the** offspring's **head and the majority of** its body to the mother **does not suffice unless its whole** body **has** the appearance of an ox. Therefore, the *tanna* **teaches us** that a resemblance of its head and the majority of its body to the mother do suffice.

תָּא שְׁמַע: ״אַךְ אֶת זֶה לֹא תֹאכְלוּ מִמַּעֲלֵי הַגֵּרָה וּמִמַּפְרִיסֵי הַפַּרְסָה״ – זֶה אִי אַתָּה אוֹכֵל, אֲבָל אַתָּה אוֹכֵל הַבָּא בְּסִימָן אֶחָד.

The Gemara suggests: **Come** and **hear** a proof from a *baraita*: The Torah states: **"Nevertheless these shall you not eat from them that only chew the cud, or from them that only have a split hoof:** The camel" (Leviticus 11:4).[N] The phrase: "From them that only chew the cud," which is referring to animals that are forbidden for consumption, indicates that a camel or other non-kosher animal that is born to a kosher animal is forbidden. Furthermore, the word "these" teaches that concerning **these** animals that resemble a non-kosher animal, **you may not eat** them when they are born to a kosher animal, **but you may eat** a non-kosher animal **that comes with one characteristic** of its mother.

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וְאֵי זֶה זֶה הַבָּא בְּסִימָן אֶחָד – זֶה טָמֵא הַנּוֹלָד מִן הַטָּהוֹר וְעִבּוּרוֹ מִן הַטָּהוֹר.

And which animal **is this that comes with one characteristic** of its mother? **This is a non-kosher** animal **that is born from a kosher** female animal **and its impregnation** came **from a kosher** male animal.

יָכוֹל אֲפִילּוּ עִבּוּרוֹ מִן הַטָּמֵא? תַּלְמוּד לוֹמַר: ״זֶה כְּשָׁבִים וְשֵׂה עִזִּים״ – עַד שֶׁיִּהְא אָבִיו כֶּבֶשׂ וְאִמּוֹ כִּבְשָׂה, דִּבְרֵי רַבִּי יְהוֹשֻׁעַ.

The *baraita* continues: One **might** have thought that **even** if **its conception** came **from a non-kosher** male animal it should be permitted. Therefore, **the verse states:** "These are the beasts which you may eat: "The ox, **the sheep** [***seh kesavim***], **and goat** [***veseh izzim***]" (Deuteronomy 14:4). The plural form of "*kesavim*" and "*izzim*" indicates that a lamb is not kosher **unless its father is a male lamb and its mother is a female lamb.** This is **the statement of Rabbi Yehoshua.**

רַבִּי אֱלִיעֶזֶר אוֹמֵר: לֹא בָא הַכָּתוּב לְהַתִּיר אֶת הַמּוּתָּר, אֶלָּא לְהוֹסִיף עַל הַמּוּתָּר, וְאֵיזֶה זֶה – טָמֵא הַנּוֹלָד מִן הַטָּהוֹר וְעִבּוּרוֹ מִן הַטָּמֵא. אוֹ אֵינוֹ אֶלָּא עִבּוּרוֹ מִן הַטָּהוֹר? תַּלְמוּד לוֹמַר: ״שׁוֹר שֵׂה כְשָׂבִים וְשֵׂה עִזִּים״ – מִכָּל מָקוֹם.

Rabbi Eliezer says: Offspring whose father and mother are both kosher are permitted, and **this verse** which renders permitted an offspring that partially resembles its mother **does not come to permit that which is permitted,**[N] i.e., where both parents are kosher, but it comes **rather to add to that which is permitted; and which** case **is this?** It is a case of **a non-kosher** animal **that is born from a kosher** animal **and its conception** came **from a non-kosher** animal. **Or** perhaps it permits **only** an animal whose **conception** came **from a kosher** animal? **The verse states: "The ox, the sheep** [***seh kesavim***], **and goat** [***veseh izzim***]." The repetition of the word *seh* indicates that it is permitted to be eaten **in any case,** even if only its mother was a ewe.

קָרֵי לֵיהּ ״טָמֵא״ – כְּרַבִּי שִׁמְעוֹן, וְקָאָמַר: אֲבָל אַתָּה אוֹכֵל הַבָּא בְּסִימָן אֶחָד!

In any event, the *tanna* of this *baraita* **refers to** a non-kosher animal that was born to a kosher animal as **non-kosher, in accordance with** the opinion of **Rabbi Shimon,** who deems a camel that was born to a cow forbidden to eat, **and he says: But you may eat** a non-kosher animal **that comes with one characteristic** that is similar to its mother. Apparently, Rabbi Shimon does not require that the head and the majority of the body resemble the mother for it to be rendered fit for consumption.

הַאי תַּנָּא סָבַר לֵיהּ כְּוָותֵיהּ בַּחֲדָא וּפָלֵיג עֲלֵיהּ בַּחֲדָא.

The Gemara responds: No proof may be brought from here, as **this *tanna* holds in accordance with** the opinion of Rabbi Shimon **with regard to one** matter, where a kosher animal gave birth to a non-kosher animal, maintaining that it is forbidden, **and disagrees with his** opinion **with regard to one** other matter, where the animal has some characteristics of the mother, in which case this *tanna* deems it permitted to be eaten. Concerning the second matter, Rabbi Shimon deems it forbidden unless the head and majority of the body resemble the mother.

וְאִיכָּא דְּמַקְשֵׁי וּמוֹתֵיב: עִבּוּרוֹ מִן הַטָּמֵא – מִי מַעֲבְּרָא?

The Gemara comments that **there are those who raise a difficulty** with this *baraita* **and resolve** it, thereby resolving the dilemma concerning the opinion of Rabbi Shimon: The *baraita* states that the kosher animal's **impregnation** came **from a non-kosher** animal.[B] **Can** a kosher animal **become pregnant** from a non-kosher animal?

וְהָאָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: לְעוֹלָם אֵין מִתְעַבֶּרֶת לֹא טְמֵאָה מִן הַטָּהוֹר, וְלֹא טְהוֹרָה מִן הַטָּמֵא, וְלֹא גַּסָּה מִן הַדַּקָּה, וְלֹא דַּקָּה מִן הַגַּסָּה, וְלֹא בְּהֵמָה מִן חַיָּה, וְלֹא חַיָּה מִן בְּהֵמָה;

But doesn't Rabbi Yehoshua ben Levi say: A non-kosher animal **never becomes pregnant from a kosher** one, e.g., a camel from an ox, **nor a kosher** animal **from a non-kosher** one, e.g., a cow from a horse, **nor a large** animal **from a small** animal, e.g., a cow from a goat, **nor a small** one **from a large** one, e.g., a ewe from an ox, **nor a domesticated animal from an undomesticated animal,** e.g., a goat from a deer, **nor an undomesticated animal from a domesticated animal,** e.g., a gazelle from a goat.

חוּץ מֵרַבִּי אֱלִיעֶזֶר וּמַחֲלוֹקְתּוֹ, שֶׁהָיוּ אוֹמְרִים: חַיָּה מִתְעַבֶּרֶת מִבְּהֵמָה!

With regard to all these cases, everyone agrees that pregnancy is impossible **except for Rabbi Eliezer and his disputants, who would say** that **an undomesticated animal can become pregnant from a domesticated animal** (see Ḥullin 79b). Those Sages disagree with regard to whether slaughtering the offspring of a gazelle that became pregnant from a goat is included in the prohibition against slaughtering a mother and its offspring on the same day.

NOTES

This verse does not come to permit that which is permitted – לֹא בָא הַכָּתוּב לְהַתִּיר אֶת הַמּוּתָּר: According to Rashi and Rabbeinu Gershom Meor HaGola, Rabbi Eliezer is commenting on the verse cited by Rabbi Yehoshua: "This is the animal that you shall eat, the sheep [*seh kesavim*], and goat [*veseh izzim*]." His point is that this verse is not necessary in order to permit the consumption of a lamb whose parents are both sheep. Rather, it is necessary in order to permit the offspring of a lamb and a non-kosher animal. *Tosafot* suggest that Rabbi Eliezer is referring to the verse: "Nevertheless these shall you not eat from them that only chew the cud, or from them that only have a split hoof," which was the source for permitting the consumption of a camel that was born to a cow with at least one similar characteristic to its mother. Rabbi Eliezer holds that no verse is necessary to teach that if the father is a kosher animal the offspring is permitted, as this is already derived from the verse: "This is the animal that you shall eat, the sheep, and goat." Rather, it teaches that in a case where the father is a non-kosher animal, the offspring is still kosher. In fact, a number of the later commentaries slightly modify the text of Rashi's comment to reflect this idea as well (*Tzon Kodashim*; *Ḥok Natan*).

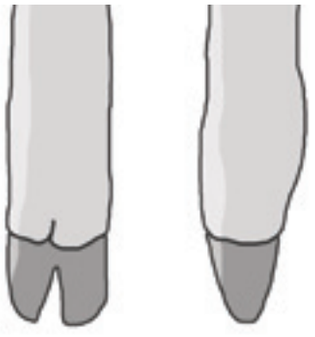
BACKGROUND

Its impregnation came from a non-kosher animal – עִבּוּרוֹ מִן הַטָּמֵא: Significant differences exist between kosher and non-kosher animals, domesticated and undomesticated animals, and large and small animals, with regard to both number of chromosomes and the nature of their genes. Animals in these different categories cannot reproduce together. All of the kosher animals are included in one group of animals, i.e., those that have split hooves, but significant differences exist between the various animals in this group. It is occasionally possible for animals of different species that are classified in related zoological categories to reproduce together, e.g., a donkey and a horse that give birth to a mule or crossbreeding a dog and a wolf.

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BACKGROUND

Animal with closed hooves that is the offspring of a cow – קָלוּט בֶּן פָּרָה: Occasionally a kosher animal gives birth to an animal whose hooves are syndactyl, i.e., closed. This creature therefore lacks one of the two distinguishing characteristics that render an animal kosher, despite the fact that genetically it belongs to a kosher species.



Normal cow hoof at left, syndactyl hoof at right

HALAKHA

The offspring of a *tereifa* – וְלַד טְרֵיפָה: The offspring of an animal that is forbidden to be offered upon the altar is permitted to be offered. This includes the offspring of a *tereifa*. This ruling is in accordance with the opinion of Rabbi Yehoshua, who holds that the product of a prohibited and permitted item is permitted (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:12 and Mahari Kurkus there).

וְאָמַר רַבִּי יִרְמְיָה: דְּאִיעַבַּר מִקָּלוּט בֶּן פָּרָה, וְאַלִּיבָּא דְּרַבִּי שִׁמְעוֹן קָאָמַר. וְקָאָמַר: אֲבָל אַתָּה אוֹכֵל הַבָּא בְּסִימָן אֶחָד!

And Rabbi Yirmeya says in response to the difficulty: When the *baraita* discusses the case of a kosher animal that became pregnant from a non-kosher animal, the reference is to a case **where** the kosher animal **became pregnant from** an animal **with closed hooves** that is **the offspring of a cow.**[B] A cow can become pregnant from such an animal because the mother of that animal was a cow. **And** the *tanna* of the *baraita* **said** his opinion **in accordance with** the opinion **of Rabbi Shimon,** that a non-kosher animal that was born from a kosher animal is considered non-kosher, **and he says: But you may eat that which comes with one characteristic** of its mother. Apparently, Rabbi Shimon does deem permitted the consumption of an animal with some characteristics similar to its mother.

הַאי תַּנָּא סָבַר לָהּ כְּוָותֵיהּ בַּחֲדָא וּפְלִיג עֲלֵיהּ בַּחֲדָא.

The Gemara responds: **This *tanna* holds in accordance with** the opinion of Rabbi Shimon **with regard to one** matter, where a kosher animal gave birth to a non-kosher animal, maintaining that it is forbidden, **and disagrees with his** opinion **with regard to one** other matter, where the animal has some characteristics of the mother, in which case this *tanna* deems it fit for consumption. Concerning the second matter, Rabbi Shimon deems it forbidden unless the head and majority of the body resemble the mother.

לְמֵימְרָא דְּרַבִּי אֱלִיעֶזֶר סָבַר: זֶה וְזֶה גּוֹרֵם – מוּתָּר, וְרַבִּי יְהוֹשֻׁעַ סָבַר: זֶה וְזֶה גּוֹרֵם – אָסוּר?

§ The Gemara asks concerning the dispute between Rabbi Eliezer and Rabbi Yehoshua in the *baraita*: **Is this to say that Rabbi Eliezer holds** that when both **this and that cause** it, i.e., both permitted and forbidden items contribute to a result, the result is **permitted,** and he therefore permits the consumption of the offspring of a kosher animal that became pregnant from a non-kosher animal; **and Rabbi Yehoshua holds** that when both **this and that cause** it, it is **forbidden?**

וְהָא אִיפְּכָא שְׁמִעִינַן לְהוּ: וְלַד טְרֵיפָה, רַבִּי אֱלִיעֶזֶר אוֹמֵר: לֹא יִקָּרֵב לְגַבֵּי מִזְבֵּחַ, וְרַבִּי יְהוֹשֻׁעַ אוֹמֵר: יִקָּרֵב לְגַבֵּי מִזְבֵּחַ!

But we have heard them saying **the opposite:** With regard to **the offspring of an animal with a wound that will cause it to die within twelve months** [***tereifa***][H] and is forbidden to be eaten or sacrificed as an offering upon the altar, **Rabbi Eliezer says:** The offspring **may not be sacrificed upon the altar** either, despite the fact that its father is kosher, **and Rabbi Yehoshua says:** The offspring **may be sacrificed upon the altar** despite the fact that its mother is a *tereifa*, since its father is kosher.

בְּעָלְמָא סָבַר רַבִּי אֱלִיעֶזֶר: זֶה וְזֶה גּוֹרֵם – אָסוּר. וְשָׁאנֵי הָכָא, דְּאִם כֵּן נִכְתּוֹב קְרָא: ״שֵׂה כְּשָׂבִים וְעִזִּים״, ״שֵׂה״ ״וְשֵׂה״ לָמָּה לִי? שְׁמַע מִינָּהּ: שֵׂה – מִכָּל מָקוֹם.

The Gemara answers: **Generally, Rabbi Eliezer holds** that when both **this and that cause** the result, it is **forbidden. But** it **is different here** in the case of a kosher animal that became pregnant from a non-kosher animal, **because if** it is **so,** i.e., that the offspring is forbidden, **let the verse write: Sheep and goats** [***seh kesavim ve'izzim***]. **Why do I** need the verse to repeat the term "*seh*" in the phrase "***seh** kesavim **veseh** izzim*"? **Learn from it** that **a *seh*** is permitted **in any case,** i.e., even if only the mother is kosher it is permitted to eat the offspring.

וְרַבִּי יְהוֹשֻׁעַ אָמַר לָךְ: בְּעָלְמָא זֶה וְזֶה גּוֹרֵם – מוּתָּר. וְהָכָא, אִם כֵּן לִכְתּוֹב קְרָא: ״שׁוֹר כֶּשֶׂב וְעֵז״, ״כְּשָׂבִים״ ״וְעִזִּים״ לָמָּה לִי? שְׁמַע מִינָּהּ: עַד שֶׁיְּהֵא אָבִיו כֶּבֶשׂ וְאִמּוֹ כִּבְשָׂה.

And as for **Rabbi Yehoshua,** he could have **said to you: Generally,** if both **this and that cause** the result it is **permitted. But here** it is different, as **if so,** i.e., if the offspring of a kosher animal that became pregnant from a non-kosher animal is permitted, **let the verse write:** These are the animals that you may eat: **An ox, a lamb, and a goat. Why do I** need it to state: "***Seh kesavim veseh izzim,***" in the plural? **Learn from it** that the offspring may not be eaten **unless its father is a male lamb and its mother is a female lamb.**

תָּא שְׁמַע, רַבִּי שִׁמְעוֹן אוֹמֵר: ״גָּמָל״ ״גָּמָל״ שְׁנֵי פְּעָמִים – אֶחָד גָּמָל הַנּוֹלָד מִן הַגָּמָל, וְאֶחָד גָּמָל הַנּוֹלָד מִן הַפָּרָה. וְאִם רֹאשׁוֹ וְרוּבּוֹ דּוֹמֶה לְאִמּוֹ – מוּתָּר בַּאֲכִילָה.

§ The Gemara returns to the dilemma of whether Rabbi Shimon permits the consumption of the offspring of a kosher animal that resembles a non-kosher animal but has some of the characteristics of its mother. **Come** and **hear** a proof from a *baraita*: **Rabbi Shimon says** it is stated: "**Camel**" (Leviticus 11:4), "**camel**" (Deuteronomy 14:7), i.e., the term is written **two times** with regard to the prohibition against consumption. This teaches that **both a camel that is born from a camel and a camel that is born from a cow** are non-kosher. **And if** in the latter case **its head and the majority of** its body **are similar to its mother, it is permitted for consumption.**

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שְׁמַע מִינָּהּ: לַאֲכִילָה נַמִּי בָּעֵי רַבִּי שִׁמְעוֹן רֹאשׁוֹ וְרוּבּוֹ, שְׁמַע מִינָּהּ.

Learn from it that not only with regard to firstborn status, but **with regard to consumption as well Rabbi Shimon requires** that **its head and the majority of** its body resemble the mother,[N] and a partial resemblance does not suffice. The Gemara concludes: Indeed, **learn from it** that this is so.

״שֶׁהַיּוֹצֵא מִן הַטָּמֵא״ וכו׳. בָּעוּ מִינָּהּ מֵרַב שֵׁשֶׁת: מֵי רַגְלַיִם שֶׁל חֲמוֹר, מַהוּ?

§ The mishna (5b) teaches: This is **because that which emerges from the non-kosher** animal is non-kosher and that which emerges from the kosher animal is kosher. The Sages **raised a dilemma before Rav Sheshet:** With regard to **the urine of a donkey,**[B] **what is** the *halakha*? Is it forbidden, like the milk of a donkey?

וְתֵיבָּעֵי לֵיהּ דְּסוּסִים וּגְמַלִּים? דְּסוּסִים וּגְמַלִּים לָא מִיבָּעֵיָא לְהוּ – דְּלָא עֲבִירִי וְלָא דָּמוּ לְחָלָב, מַיָּא עוֹל מַיָּא נָפוֹק. כִּי קָמִיבָּעְיָא לְהוּ דַּחֲמוֹר, דַּעֲבִירִי וְדָמוּ לְחָלָב, מַאי? מִגּוּפֵיהּ קָא מִיפַּצְיָי, וַאֲסִירִי. אוֹ דִלְמָא: מַיָּא עוֹל מַיָּא נָפוֹק, וְהַאי דַּעֲבִירִי – הַבְלָא דְּבִישָׁרָא הוּא?

The Gemara asks: **And** should they **raise the dilemma** also **with regard to** the urine **of horses and camels?** The Gemara answers: With regard to the urine **of horses and camels they did not raise the dilemma, as** their urine **is not turbid and** consequently **is not similar to milk.** Rather, **water enters** their body and **water exits** their body. **When they raised the dilemma** it was concerning the urine **of a donkey, which is turbid and is** consequently **similar to milk. What** is the *halakha*? **Does it get excreted from its body, and it is** therefore **forbidden, or perhaps water enters** and **water exits, and** the fact **that it is turbid is** due to **the heat of the flesh?**

אֲמַר לְהוּ רַב שֵׁשֶׁת, תְּנִיתוּהָ: שֶׁהַיּוֹצֵא מִן הַטָּמֵא – טָמֵא, וְהַיּוֹצֵא מִן הַטָּהוֹר – טָהוֹר; ״מִטָּמֵא״ לָא קָאָמַר, אֶלָּא: ״מִן

Rav Sheshet said to them: You learned the answer in the mishna: This is **because that which emerges from the non-kosher** animal **is non-kosher and that which emerges from the kosher** animal **is kosher.** From the fact that it **does not state:** That which emerges **from a non-kosher** animal [*mittamei*], meaning from the body of a non-kosher animal, but **rather** it says: **From**

NOTES

Rabbi Shimon requires that its head and the majority of its body resemble the mother – בָּעֵי רַבִּי שִׁמְעוֹן רֹאשׁוֹ וְרוּבּוֹ: There are four opinions with regard to the status of a non-kosher animal that is born to a kosher animal. The mishna holds that one is permitted to eat it even if it does not resemble its mother whatsoever. Rabbi Shimon holds it is unfit for consumption unless its head and the majority of its body resemble the mother, while the *tanna'im* cited in the *baraita* hold that if it has some characteristics of its mother it is permitted. Of those *tanna'im*, Rabbi Yehoshua holds that it is permitted only if the father is a kosher animal, while Rabbi Eliezer holds that it is permitted even if the father is a non-kosher animal (*Shita Mekubbetzet*).

BACKGROUND

Urine of a donkey – מֵי רַגְלַיִם שֶׁל חֲמוֹר: The urine of a donkey is cloudy and its color occasionally appears similar to that of milk, due to a high concentration of calcium carbonate crystals ($CaCO_3$) and mucus. Urine, in contrast to milk, is not produced by the body, but it does contain ingredients that were absorbed by the body and excreted from it. Therefore, the Gemara inquires as to whether its halakhic status is comparable to that of milk or not.

Perek **I**
Daf **7** Amud **b**

הַטָּמֵא״, וְהָנֵי נַמִּי מִינָא דְּטָמֵא הוּא.

the non-kosher animal [*min hattamei*], one can infer that any type [*min*] of non-kosher substance is included. **And these** fluids, i.e., the urine of a donkey, **are also a type of non-kosher** substance,[N] as they resemble the milk of a donkey, which is forbidden.

וְאִיבָּא דְּאָמְרִי: דְּסוּסִים וּגְמַלִּים לָא קָא מִיבַּעְיָא לְהוּ – דְּלָא שָׁתוּ אֱינָשֵׁי. כִּי קָמִיבָּעְיָא לְהוּ דַּחֲמוֹר, דְּשָׁתוּ אֱינָשֵׁי וּמַעֲלוּ לְיַרְקוֹנָא, מַאי?

And there are those **who say**[N] there is a different version of the discussion about the urine of a donkey: With regard to the urine **of horses and camels,** the students of Rav Sheshet **did not raise the dilemma, because people do not drink** it. **When they raised the dilemma** it was with regard to the urine **of a donkey, which people drink and** which **is beneficial for** curing **jaundice.**[B] **What,** then, is the *halakha*?

BACKGROUND

Jaundice [*yerakon*] – יְרַקּוֹן: This type of condition, which is mentioned here with regard to people, appears to refer to jaundice. Although jaundice usually causes the skin to be a yellowish color, the word green [*yarok*] is often used in talmudic sources to refer to the color yellow as well. In ancient Greek medical literature, the suggestion of drinking the urine of donkeys is also mentioned as a possible cure for this condition.

NOTES

And these fluids are also a type of non-kosher substance – וְהָנֵי נַמִּי מִינָא דְּטָמֵא הוּא: Some commentaries, interpreting Rashi's explanation here, understand Rav Sheshet as saying that the donkey's urine is a bodily excretion, which was one of the two sides of the dilemma posed to him (see *Meromei Sadeh* and *Haggahot Rabbi David Luria*). Rabbeinu Tam (*Sefer HaYashar* 529) explains that according to Rav Sheshet, the language of: From the non-kosher animal [*min hattamei*], includes substances that are not actually produced by the body but whose appearance and taste are slightly altered due to having been inside the body of the non-kosher animal. According to this explanation, Rav Sheshet holds that there is no distinction drawn whether the urine is produced and excreted by the body of the donkey or whether its appearance is merely altered due to the body heat of the donkey.

And there are those who say – וְאִיבָּא דְּאָמְרִי: According to this version of the discussion, it appears that urine is not considered a bodily excretion, but rather is described by the phrase: Water enters and water exits (Rabbeinu Gershom Meor HaGola).

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אֲמַר לְהוּ רַב שֵׁשֶׁת, תְּנֵיתוּהָ: הַיּוֹצֵא מִן הַטָּמֵא – טָמֵא, וְהַיּוֹצֵא מִן הַטָּהוֹר – טָהוֹר; וְהָנֵי נַמִי מִטָּמֵא קָאָתֵי.

Rav Sheshet said to them: You learned the answer to your dilemma in the mishna: **That which emerges from the non-kosher** animal **is non-kosher and that which emerges from the kosher** animal **is kosher, and these** fluids **also come from** a donkey, which is **non-kosher.** Therefore, they are forbidden.[H]

מֵיתִיבִי: מִפְּנֵי מָה אָמְרוּ דְּבַשׁ דְּבוֹרִים מוּתָּר? מִפְּנֵי שֶׁמַּכְנִיסוֹת אוֹתוֹ לְגוּפָן, וְאֵין מְמַצּוֹת אוֹתוֹ מִגּוּפָן!

The Gemara **raises an objection** from a *baraita*: **For what** reason did the Sages **say** that **the honey**[B] **of bees**[H] **is permitted?** It is **because they bring** the nectar from the flowers **into their body, but they do not excrete it from their body** as a bodily excretion. So too, the urine of a donkey is not an excretion produced by the body itself. Rather, it is simply ejected in the same form that it entered the body. Why, then, should it be forbidden?

הוּא דְּאָמַר כְּרַבִּי יַעֲקֹב, דְּאָמַר: דּוּבְשָׁא רַחֲמָנָא שַׁרְיֵיהּ.

The Gemara answers: Rav Sheshet **stated** his answer **in accordance with** the opinion of **Rabbi Ya'akov, who says** that with regard to **honey, the Merciful One permits it** as an exception to the principle that a substance that emerges from a non-kosher animal is non-kosher.

דְּתַנְיָא, רַבִּי יַעֲקֹב אוֹמֵר: ״אַךְ אֶת זֶה תֹּאכְלוּ מִכֹּל שֶׁרֶץ הָעוֹף״ – זֶה אַתָּה אוֹכֵל, וְאִי אַתָּה אוֹכֵל שֶׁרֶץ עוֹף טָמֵא.

This is **as it is taught** in a *baraita*: **Rabbi Ya'akov says** that it is stated: **"Yet these may you eat of all winged creatures"** (Leviticus 11:21). The word "these" indicates that **you may eat these, but you may not eat a non-kosher winged creature.**

שֶׁרֶץ עוֹף טָמֵא בְּהֶדְיָא כְּתִיב! אֶלָּא, שֶׁרֶץ עוֹף טָמֵא אִי אַתָּה אוֹכֵל, אֲבָל אַתָּה אוֹכֵל מַה שֶּׁעוֹף טָמֵא מַשְׁרִיץ, וְאֵיזֶהוּ זֶה – זֶה דְּבַשׁ דְּבוֹרִים.

The Gemara asks: Why is this inference necessary? The prohibition against eating **a non-kosher winged creature is written explicitly:** "All winged creatures that go upon all fours are a repugnance to you" (Leviticus 11:20). **Rather,** the inference must be understood as follows: **You may not eat a non-kosher winged creature, but you may eat that which a non-kosher winged creature discharges** from its body, **and what is that? That is the honey of bees.**

יָכוֹל אַף דְּבַשׁ הַגִּזִּין וְהַצִּרְעִין? אָמַרְתָּ: לֹא. וּמָה רָאִיתָ לְרַבּוֹת דְּבוֹרִים וּלְהוֹצִיא הַגִּזִּין וְהַצִּרְעִין? מְרֻבֶּה אֲנִי דְּבַשׁ דְּבוֹרִים – שֶׁאֵין לוֹ שֵׁם לָווּי, וּמוֹצִיא אֲנִי דְּבַשׁ הַגִּזִּין וְהַצִּרְעִין – שֶׁיֵּשׁ לוֹ שֵׁם לָווּי.

The Gemara cites the continuation of the *baraita*: One **might** have thought that **even the honey of *gizzin***[B] **and wasps**[BH] should be permitted. Nevertheless, you** should **say no.** The *baraita* asks: **And what did you see to include** the honey of **bees** as being permitted to eat **and to exclude** the honey of ***gizzin* and wasps** as being forbidden? The *baraita* answers: **I include the honey of bees, as** its name **does not have a modifier,**[N] i.e., the word honey alone always refers to the honey of bees. **And I exclude the honey of *gizzin* and wasps, which have a modifier,** i.e., one must always add the word *gizzin* or wasp to specify these particular types of honey.

כְּמַאן אָזְלָא הָא דְּתַנְיָא: דְּבַשׁ הַגִּזִּין וְהַצִּרְעִין – טָהוֹר, וּמוּתָּר בַּאֲכִילָה? דְּלָא כְּרַבִּי יַעֲקֹב.

The Gemara comments: **In accordance with whose** opinion **is that which is taught** in a *baraita*: **The honey of *gizzin* and wasps is not susceptible to ritual impurity and is permitted for consumption?** It is **not in accordance with** the opinion of **Rabbi Ya'akov.**

BACKGROUND

Honey – דְּבַשׁ: In contrast to milk, which is produced inside the body of a cow from nutrients found in the blood, honey is made from the nectar of plants that is processed by enzymes found in the bee's crop, known as a honey stomach. The bee then expels the honey from its mouth. The nectar is never actually digested by the bee, and the honey is therefore not considered to have been produced and excreted by its body.

***Gizzin* – גִּזִּין:** This type of flying insect is identified by some of the commentaries as a type of bee. Some identify it as the cicada, known as *Cicada orni*, which consumes plant nectar and expels a sweet liquid; this is apparently the honey referred to in the Gemara here. In the *Tosefta*, the word *zizin* is used, which is a type of locust that does not produce honey (see *Tosafot*). Rather, the honey referred to is the mucus that they secrete, which is similar to any other type of secretion that is discharged from their body.



Cicada

Wasps – צִרְעִין: This insect is mentioned in the Torah (e.g., Exodus 23:28). It is considered by the Sages to be a winged creature, and appears to be the large wasp known as *Vespa orientalis*. Its Hebrew name is *devor*. It is well known that wasps take honey that was produced by bees and store it, and it is possible that this is the reason why the *baraita* here rules that the honey of wasps is permitted.



Oriental wasps

NOTES

I include the honey of bees, as its name does not have a modifier – מְרֻבֶּה אֲנִי דְּבַשׁ דְּבוֹרִים שֶׁאֵין לוֹ שֵׁם לָווּי: In other words, it is more reasonable that the Torah permits the honey of bees, which is simply termed honey. By contrast, since the honey of *gizzin* and wasps is referred to by the name of the insect, it is forbidden, like the insect itself (Rabbeinu Gershom Meor HaGola; Rabbeinu Tam). The *Tosefta* (1:8) also cites this *halakha* but offers a different distinction: The honey of bees is brought into their bodies in the form of nectar and is therefore not deemed a bodily excretion, while the honey of *gizzin* is actually the mucus that emerges from their bodies.

HALAKHA

The urine of a donkey – מֵי רַגְלַיִם שֶׁל חֲמוֹר: It is prohibited to consume the urine of a non-kosher animal, whether it is from a donkey or any other non-kosher animal. This is in accordance with the second version of Rav Sheshet's ruling, which is that no difference exists between the urine of donkeys and that of horses and camels. The reason that the *halakha* follows the second version of Rav Sheshet's opinion over the first version is due to the opinion of the *ge'onim* that the *halakha* generally follows the latter version (Gra), as well as the fact that in a matter of uncertainty pertaining to a Torah prohibition the stringent opinion is generally adopted (Rosh).

Some do permit urine to be drunk, including that of a donkey (Rambam). According to this ruling the *halakha* is not in accordance with the opinion of Rav Sheshet at all, as the unattributed mishna with regard to the honey of *gizzin* and wasps is not in accordance with his opinion. Furthermore, urine is considered merely a secretion (Gra). Other commentaries forbid the urine of a donkey but permit that of horses and camels (Mordekhai), in accordance with the interpretation of the second version of Rav Sheshet that they are certainly permitted (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 4:20; *Shulḥan Arukh*, *Yoreh De'a* 81:1, and see *Shakh* and *Piṭḥei Teshuva* there).

The honey of bees – דְּבַשׁ דְּבוֹרִים: The consumption of honey from bees is permitted, in accordance with the ruling of the Mishna (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 3:3; *Shulḥan Arukh*, *Yoreh De'a* 81:8).

The honey of *gizzin* and wasps – דְּבַשׁ הַגִּזִּין וְהַצִּרְעִין: The consumption of the honey of *gizzin* and wasps is permitted, in accordance with the unattributed mishna in tractate *Makhshirin* (6:4). The Ramban and the Rosh deem this forbidden in accordance with the opinion of Rav Ya'akov, whose opinion is accepted by Rav Sheshet (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 3:3; *Shulḥan Arukh*, *Yoreh De'a* 81:9, and see *Be'er HaGola* there).

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״טָהוֹר״ – אַלְמָא בָּעֵי מַחֲשָׁבָה. תַּנְיָא נַמִּי הָכִי: דְּבַשׁ בְּכַוָּורְתּוֹ מִטַּמֵּא טוּמְאַת אוֹכָלִין שֶׁלֹּא בְּמַחֲשָׁבָה.

The Gemara infers from the expression: **Is not susceptible** to **ritual impurity,** that **apparently,** in order for the honey of *gizzin* and wasps to become susceptible to ritual impurity it **requires** specific **intention** to eat it, which renders it food. Furthermore, the *baraita* indicates that honey from bees does not require specific intention to eat it in order for it to become susceptible, because it is normally used for food. **This is also taught** in a *baraita*: The **honey** of bees that is still **in its hive**[H] **is susceptible** to **ritual impurity** as **food** even **without intent.**

חֲלֵי דְּיַחְמוּרְתָּא, סְבוּר רַבָּנַן לְמֵימַר: בֵּיעֵי נִינְהוּ, וַאֲסִירִין. אָמַר רַב סָפְרָא: זֶרַע דְּאַיָּלָא הוּא, דְּאָזֵיל בָּתַר אַיָּלְתָּא, וְאַיְידֵי דְּרַחְמָהּ צַר לָא מְזַדְּקָק, וְאָזֵיל בָּתַר יַחְמוּרְתָּא, וְנָתְרִי.

§ The Gemara discusses additional cases of animal secretions. With regard to **chunks** that are discharged from the womb **of** a female **fallow deer,**[HN] **the Sages thought to say** that **they are** its **egg cells, and** therefore **are forbidden** as a limb severed from a living animal. **Rav Safra said: It is the semen of a hart, which pursues the hind, but since** the hind's **womb is narrow it does not mate** with the hart, **and** instead the hart **pursues the** female **fallow deer** and mates with it, **and** chunks of its semen that have hardened **fall out** of the fallow deer's body.

אָמַר רַב הוּנָא: עוֹר הַבָּא כְּנֶגֶד פָּנָיו שֶׁל חֲמוֹר – מוּתָּר, מַאי טַעֲמָא? פִּירְשָׁא בְּעָלְמָא הוּא.

Rav Huna says: The skin that emerges opposite the face[N] **of a donkey**[H] when it is born, i.e., the fetal sac that envelopes it during birth, is **permitted** to be consumed. **What is the reason? It is merely a secretion,**[N] and is not an integral part of the mother or the offspring.

אָמַר לֵיהּ רַב חִסְדָּא: תַּנְיָא דְּמִסַּיַּע לָךְ: עוֹר הַבָּא כְּנֶגֶד פָּנָיו שֶׁל אָדָם, בֵּין חַי בֵּין מֵת – טָהוֹר; מַאי לָאו, בֵּין הוּא חַי וְאִמּוֹ חַיָּה, בֵּין הוּא מֵת וְאִמּוֹ מֵתָה?

Rav Ḥisda said to him: That which **is taught** in a *baraita* **supports your** opinion: **The skin that emerges opposite the face of a person,**[H] i.e., a newborn baby, **whether** the newborn is **alive or dead,** is **ritually pure** and does not transmit ritual impurity imparted by a corpse. **What, is it not** the case that **whether it is alive and its mother is alive** or **whether it is dead and its mother is dead,** it is not considered a part of the body of the fetus or the mother, but merely a secretion, and therefore even when they are both dead it does not transmit impurity?

לָא, בֵּין הוּא חַי וְאִמּוֹ מֵתָה, בֵּין הוּא מֵת וְאִמּוֹ חַיָּה. וְהָתַנְיָא: בֵּין הוּא חַי וְאִמּוֹ חַיָּה, בֵּין הוּא מֵת וְאִמּוֹ מֵתָה! אִי תַּנְיָא, תַּנְיָא.

Rav Huna answered him: **No,** there is no proof from this *baraita*, as it may mean that **whether it is alive and its mother is dead**[N] or **whether it is dead and its mother is alive,** meaning only one is alive, the skin is ritually pure. But if both are dead it is impure. Rav Ḥisda said to him: **But isn't it taught** in a *baraita* that **whether it is alive and its mother is alive** or **whether it is dead and its mother is dead,** the skin is pure? Rav Huna said to Rav Ḥisda: **If this** *baraita* **is taught, it is taught,** and I cannot dispute it.

HALAKHA

The honey of bees that is still in its hive – דְּבַשׁ בְּכַוָּורְתּוֹ: The honey of bees found in a beehive is susceptible to ritual impurity as food even without intent to consume it (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 1:18).

Chunks of a fallow deer – חֲלֵי דְּיַחְמוּרְתָּא: Chunks that are similar in appearance to the testicles of a male deer that the female fallow deer discards from its womb are permitted for consumption (*Shulḥan Arukh*, *Yoreh De'a* 81:3).

The skin that emerges opposite the face of a donkey – עוֹר הַבָּא כְּנֶגֶד פָּנָיו שֶׁל חֲמוֹר: The tissue that is situated opposite the face of a donkey, which is the placenta in which the fetus of the donkey develops, is permitted for consumption. The same *halakha* applies to other non-kosher animals as well, as the tissue is merely deemed a secretion. This ruling is in accordance with the opinion of Rav Huna (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 4:20; *Shulḥan Arukh*, *Yoreh De'a* 81:4).

The skin that emerges opposite the face of a person – עוֹר הַבָּא כְּנֶגֶד פָּנָיו שֶׁל אָדָם: The tissue that comes out opposite the face of a baby when it is born, whether it is alive and its mother is alive, or whether it is a stillborn and its mother is also dead, is ritually pure, because it is treated like a secretion. This ruling is in accordance with the *baraita* cited by Rav Ḥisda (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 3:12).

NOTES

Chunks of a fallow deer – חֲלֵי דְּיַחְמוּרְתָּא: According to Rashi this refers to matter similar to eggs that the fallow deer excretes from her womb. The Sages initially thought these were the testicles of the male that detached from it in the womb, and therefore are forbidden to be consumed because they are considered a limb from a living animal. Rabbeinu Gershom Meor HaGola explains that the Sages understood these were the ova of the fallow deer, and they are therefore forbidden, as only the eggs of a kosher bird are permitted by Torah law (see *Arukh*).

The skin that emerges opposite the face, etc. – עוֹר הַבָּא כְּנֶגֶד פָּנָיו וכו׳: *Tosafot* explain that this refers to the placenta. It appears from Rashi and Rabbeinu Gershom Meor HaGola that it refers to an additional membrane, perhaps the amniotic sac, which covers the whole body of the fetus, including the face.

It is merely a secretion – פִּירְשָׁא בְּעָלְמָא הוּא: In other words, its status is like that of other substances found inside an animal that are not integral parts of its body. This is because the Torah rendered forbidden only the flesh of a donkey but not its secretions (Responsa of the Rashba). *Tosafot* on *Ḥullin* 64a explain this to mean that it does not come from the body of the mother or the offspring. Rather, this skin is created from the semen of the donkey, which is considered foul matter and is permitted. The Ramban explains that it is inedible and considered like dirt, which is not forbidden at all; this appears to be the interpretation of the Rambam as well.

No, there is no proof from this *baraita*, whether it is alive and its mother is dead, etc. – לָא בֵּין הוּא חַי וְאִמּוֹ מֵתָה וכו׳: In other words, one can reject the proof from the *baraita* and claim this skin is actual skin. Yet it is uncertain whether it belongs to the mother or the offspring, and the presumption is that it belongs to a living being and therefore does not transmit ritual impurity (Rabbeinu Gershom Meor HaGola). *Tosafot* explain that this skin belongs to both of them, and therefore it is not considered to be the skin of a corpse until both are no longer alive. Rashi alters the text of the Gemara to read that Rav Huna holds that this skin belongs to the mother, and only when she is alive does the skin not transmit ritual impurity.

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מתני׳ דָּג טָמֵא שֶׁבָּלַע דָּג טָהוֹר – מוּתָּר בַּאֲכִילָה. וְטָהוֹר שֶׁבָּלַע דָּג טָמֵא – אָסוּר בַּאֲכִילָה, לְפִי שֶׁאֵינוֹ גִּידּוּלוֹ.

MISHNA In the case of **a non-kosher fish that swallowed a kosher fish,**[H] **consumption** of the kosher fish is **permitted. And** in the case of **a kosher** fish **that swallowed a non-kosher fish,**[H] **consumption** of the non-kosher fish is **prohibited due to** the fact **that** the host fish **is not** the place of **its development.**

גמ׳ טַעְמָא דַּחֲזִינֵיהּ דְּבָלַע, הָא לָא חֲזִינֵיהּ דְּבָלַע – אָמְרִי: אַשְׁרוּצֵי אַשְׁרִיץ.

GEMARA The Gemara infers from the language of the mishna: In the case of a non-kosher fish that swallowed a kosher fish: **The reason** consumption of the kosher fish is permitted is **that we saw that** the non-kosher fish **swallowed** the kosher fish. **But** if **we did not see it swallow** the kosher fish **we say** that perhaps the non-kosher fish **spawned** the kosher fish, and it is forbidden.

מְנָלַן? דְּתַנְיָא: דָּג טָמֵא – מַשְׁרִיץ, דָּג טָהוֹר – מֵטִיל בֵּיצִים. אִי הָכִי, כִּי חֲזִינָא דְּבָלַע אָמְרִינַן: הַאי – אִיעַכְּלָא, וְהַאי – אַשְׁרוּצֵי אַשְׁרִיץ!

From where do we derive that we must have this concern? **As it is taught** in a *baraita*: **A non-kosher fish spawns** offspring,[B] while **a kosher fish lays eggs** from which the offspring hatch. The Gemara challenges: **If so,** even **when we saw it swallowing** a kosher fish **we** should **say** that **that** fish that it swallowed **was digested, and this** one, which was found inside of the non-kosher fish, it **spawned,** and should be forbidden.

אָמַר רַב שֵׁשֶׁת: כְּגוֹן שֶׁמְּצָאוֹ דֶּרֶךְ הָרְיעִי. רַב פָּפָּא אָמַר: כְּגוֹן שֶׁמְּצָאוֹ דֶּרֶךְ בֵּית הַבְּלִיעָה. רַב נַחְמָן אָמַר: כְּגוֹן שֶׁמְּצָאוֹ שָׁלֵם.

Rav Sheshet says: It is referring to a case **where** one **found** the kosher fish in **the digestive tract,** which is not where the non-kosher fish normally spawns its offspring. **Rav Pappa says** similarly: It is referring to a case **where** one **found** the kosher fish in **the passageway of the gullet. Rav Naḥman says:** It is referring to a case **where** one **found it whole** and in complete form, and not as a newly hatched fish.

רַב אַשִׁי אָמַר: רוֹב דָּגִים בְּמִינָן מַשְׁרִיצִין, וּכְמִי שֶׁבָּלַע לְפָנֵינוּ דָּמֵי.

Rav Ashi says: Do not infer from the mishna that it is referring to a case where the non-kosher fish was seen swallowing the kosher fish. Rather, the reason it is permitted to consume the swallowed fish is that **the majority of fish spawn** offspring **of their** own **species, and** therefore the case of a kosher fish discovered inside a non-kosher fish **is considered as if** the non-kosher fish had **swallowed** the kosher fish **in our presence.**

תָּנוּ רַבָּנַן: דָּג טָמֵא – מַשְׁרִיץ, דָּג טָהוֹר – מֵטִיל בֵּיצִים. כָּל הַמּוֹלִיד – מֵנִיק, וְכָל הַמֵּטִיל בֵּיצִים – מְלַקֵּט, חוּץ מֵעַטַלֵּף, שֶׁאַף עַל פִּי שֶׁמֵּטִיל בֵּיצִים – מֵנִיק.

§ The Gemara cites the entirety of the previously mentioned *baraita*. **The Sages taught** that **a non-kosher fish spawns** its offspring, while **a kosher fish lays eggs. Any** animal **that gives birth** to its offspring **nurses** them,[B] **and any** animal **that lays eggs gathers** food and feeds it to its young. This applies to all animals **except for a bat** [***atallef***], **as although it lays eggs, it nurses** its young.

BACKGROUND

A non-kosher fish spawns offspring – דָּג טָמֵא מַשְׁרִיץ: In many non-kosher fish, especially large ones such as chondrichthyes, which have skeletons made of cartilage, the egg develops inside the body of the fish and the offspring are born as tiny fish. By contrast, with regard to kosher fish, which are osteichthyes, meaning they have a bony skeleton, the female lays eggs from which the fish eventually hatch.

Any animal that gives birth to its offspring nurses them – כָּל הַמּוֹלִיד מֵנִיק: This principle is consistent with the scientific understanding in contemporary times as well. Only in rare instances, such as those of the platypus and echidna in Australia, do animals both lay eggs and nurse their young. With regard to the word *atallef*, Rashi says it refers to the animal known in old French as *chalve soriz*, which is a bat. Although the Gemara here states that it lays eggs, according to current scientific knowledge it gives birth to live offspring following a period of gestation, and nurses them.



Platypus



Echidna

HALAKHA

A non-kosher fish that swallowed a kosher fish – דָּג טָמֵא שֶׁבָּלַע דָּג טָהוֹר: The consumption of a kosher fish that is found inside a non-kosher fish is permitted, because this is not its normal location of development. Rather, the non-kosher fish presumably swallowed it. This ruling is in accordance with the mishna and the explanation of Rav Ashi in the Gemara (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 1:5 and *Kesef Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 83:9).

A kosher fish that swallowed a non-kosher fish – דָּג טָהוֹר שֶׁבָּלַע דָּג טָמֵא: The consumption of a non-kosher fish that is found inside a kosher fish is forbidden. If the non-kosher fish was then disgorged it is permitted, as it is considered to already be digested (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 1:5; *Shulḥan Arukh*, *Yoreh De'a* 83:10 and *Shakh* there).

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הַדּוּלְפָנִין פָּרִין וְרָבִין כִּבְנֵי אָדָם. מַאי דּוּלְפָנִין? אָמַר רַב יְהוּדָה: בְּנֵי יַמָּא.

The *dulfanin*[B] reproduce like people.[N] The Gemara asks: **What are *dulfanin*? Rav Yehuda says:** They are creatures that are called **sons of the sea.**

כָּל שֶׁבֵּיצָיו מִבַּחוּץ – מוֹלִיד, וְכָל שֶׁבְּפְנִים – מֵטִיל בֵּיצִים.

The *baraita* continues: In the case of **any** male animal **whose testicles are external,** the female **gives birth**[B] to live offspring, **and** in the case of **any** male animal **whose testicles are internal,** the female **lays eggs.**

אִינִי? וְהָאָמַר שְׁמוּאֵל: אַוָּוז וְאַוָּוז בַּר – כִּלְאַיִם זֶה בָּזֶה; וְהָוֵינַן בָּהּ: מַאי טַעְמָא? אֲמַר אַבַּיֵי: זֶה – בֵּיצָיו מִבַּחוּץ, וְזֶה – בֵּיצָיו מִבִּפְנִים. וְתַרְוַיְיהוּ מְטִילֵי בֵּיצִים!

The Gemara asks: **Is that so? But doesn't Shmuel say** that a domestic **goose and a wild goose**[BH] **are** considered **diverse kinds,** and one may not mate them **with each other. And we discussed it: What is the reason? Abaye said:** In the case of **this** one, the male wild goose, **its testicles are external, and** in the case of **that** one, the domestic goose, **its testicles are internal.** The Gemara comments: **And** yet **both** geese **lay eggs.** Evidently, the fact that the male's testicles are external does not prove that the female gives birth.

אֶלָּא: כָּל שֶׁזִּכְרוּתוֹ מִבַּחוּץ – מוֹלִיד, מִבִּפְנִים – מַטִּיל בֵּיצִים.

Rather, the *baraita* must mean the following: With regard to **any** animal **whose male** reproductive **organ** is **external,** the female **gives birth,** and in the case of any male animal whose reproductive organ is **internal,** the female **lays eggs.** Although the testicles of the male wild goose are external, its reproductive organ is internal.

כָּל שֶׁתַּשְׁמִישׁוֹ בַּיּוֹם – יוֹלֵד בַּיּוֹם, בַּלַּיְלָה – יוֹלֵד בַּלַּיְלָה, כָּל שֶׁתַּשְׁמִישׁוֹ בֵּין בַּיּוֹם בֵּין בַּלַּיְלָה – יוֹלֵד בֵּין בַּיּוֹם בֵּין בַּלַּיְלָה.

§ The *baraita* continues to discuss matters of animal procreation: **Any** species **whose sexual intercourse** occurs only **during the daytime gives birth** only **during the daytime;** any species whose intercourse occurs only **at night gives birth** only **at night; any** species **whose intercourse** occurs **both during the daytime and at night gives birth both during the daytime and at night.**

תַּשְׁמִישׁוֹ בַּיּוֹם יוֹלֵד בַּיּוֹם – תַּרְנְגוֹל, בַּלַּיְלָה יוֹלֵד בַּלַּיְלָה – עֲטַלֵּף, תַּשְׁמִישׁוֹ בֵּין בַּיּוֹם בֵּין בַּלַּיְלָה יוֹלֵד בֵּין בַּיּוֹם בֵּין בַּלַּיְלָה – אָדָם וְכָל דְּדָמֵי לֵיהּ.

The Gemara elaborates: The statement that any species whose **intercourse** occurs **during the daytime gives birth during the daytime** is referring to **a chicken.**[B] The statement that any species whose intercourse occurs **at night gives birth at night** is referring to **a bat.** The statement that any species whose **intercourse** occurs **both during the daytime and at night gives birth both during the daytime and at night** is referring to **a human and any** creature **that is similar to him.**

לְמַאי נָפְקָא מִינַּהּ? לְכִדְרַב מָרִי בְּרֵיהּ דְּרַב כָּהֲנָא, דְּאָמַר רַב מָרִי בְּרֵיהּ דְּרַב כָּהֲנָא: בְּדָק בְּקִינָּה שֶׁל תַּרְנְגוֹלִין מֵעֶרֶב יוֹם טוֹב וְלֹא מָצָא בָּהּ בֵּיצָה, וּלְמָחָר הִשְׁכִּים וּמָצָא בָּהּ בֵּיצָה – מוּתֶּרֶת בַּאֲכִילָה בְּיוֹם טוֹב, אֵימַר: לֹא בָּדַק יָפֶה.

The Gemara asks: **What** halakhic **difference is** there whether an animal gives birth during the daytime or at night? The Gemara answers: The difference is **with regard to that which Rav Mari, son of Rav Kahana,** said. **As Rav Mari, son of Rav Kahana, said:** If one **examined a chicken's nest on a Festival eve and did not find an egg in it, and the following day,** on the Festival, **he rose early,** before dawn, **and found an egg in it, consumption** of the egg is **permitted on the Festival.** It is not considered an egg that was laid on the Festival, which is forbidden (see *Beitza* 2a), as chickens do not lay eggs at night. Although he examined the nest before the Festival and failed to find an egg there, one is compelled to **say** that **he did not examine** the nest **carefully.**

BACKGROUND

Dulfanin – **דּוּלְפָנִין:** Some commentaries identify this as the animal known today as the dolphin. The phrase: Reproduce like people, means here that dolphins are similar to humans in the context of procreation. For example, dolphins also engage in acts of affection with each other prior to mating, and they engage in intercourse face-to-face. In addition, dolphins are considered mammals, like humans. It is known that dolphins often assist each other as humans do, and dolphins are even known to occasionally rescue humans in distress.

Other commentaries understand *dulfanin* to refer to the creatures known as mermaids, who are part human and part fish. Numerous stories were written in ancient times about these creatures.

Any whose testicles are external, the female gives birth – כָּל שֶׁבֵּיצָיו מִבַּחוּץ מוֹלִיד: Nearly all animals known today that give birth to live offspring have external testicles, while birds, which lay eggs, have internal testicles. There are only a few exceptions to this rule, such as dolphins and elephants, which give birth to live offspring but have internal testicles.

Domestic goose and wild goose – אַוָּוז וְאַוָּוז בַּר: Nowadays, the domestic goose and wild goose are considered one species, with the wild goose classified as *anser anser* and the domestic goose as *anser anser domestica*. Although the differences between the two types are not always immediately visible, there are in fact differences between them with regard to their appearance, the sounds they make, and their lifestyles. It is difficult to understand the Gemara's statement that the testicles of the wild goose are external whereas those of the domestic goose are internal, as the testicles of all birds are located internally. Perhaps the Gemara is referring to the fat found at the end of its tail that protrudes from the body and is visible externally.

Any species whose intercourse occurs during the daytime…is referring to a chicken – תַּשְׁמִישׁוֹ בַּיּוֹם... תַּרְנְגוֹל: Chickens are generally active during daytime hours. Therefore, they usually mate during the day. Chickens also lay their eggs in the daytime, usually anytime from the early morning hours until the afternoon.

HALAKHA

A domestic goose and a wild goose – אַוָּוז וְאַוָּוז בַּר: The domestic goose and wild goose are considered diverse kinds, as the testicles of a domestic goose are internal while those of a wild goose are external. This indicates that they are two different species, in accordance with the opinion of Abaye (Rambam *Sefer Zera'im*, *Hilkhot Kilayim* 9:5; *Shulḥan Arukh*, *Yoreh De'a* 297:7).

NOTES

Reproduce like people [*kivnei adam*] – פָּרִין וְרָבִין כִּבְנֵי אָדָם: It is stated in the *Tosefta* that they also raise [*megadlin*], i.e., nurse, their offspring like humans. Rashi's version of the text reads: They reproduce from people [*mibnei adam*]. According to this version, the Gemara is referring to creatures known as mermaids, who are part human and part fish and can conceive a child from humans. Others explain that this is referring to a creature called dolphin in the Finno-Ugric languages, which reproduces in a manner similar to humans and whose female nurses its offspring (Rabbi Eliyahu Baḥur).

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וַהֲלֹא בָּדַק יָפֶה! אֵימַר: יָצְתָה רוּבָּהּ וְחָזְרָה הֲוָה. וְכִדְרַבִּי יוֹחָנָן, דְּאָמַר רַבִּי יוֹחָנָן: בֵּיצָה שֶׁיָּצְתָה רוּבָּהּ מֵעֶרֶב יוֹם טוֹב וְחוֹזֶרֶת – מוּתֶּרֶת לְאוֹכְלָהּ בְּיוֹם טוֹב.

The Gemara challenges: **But he did examine** the nest **carefully,** as the *baraita* states that he examined it. The Gemara explains: One must **say** that this **was** a case where **most of** the egg **emerged** on the eve of the Festival **and returned** inside its mother before the examination. **And** this ruling is **in accordance with** the opinion **of Rabbi Yoḥanan, as Rabbi Yoḥanan says:** In a case where **most of the egg emerged**[H] **on the eve of the Festival and returned** inside its mother it is **permitted to eat it on the Festival,** as once most of it emerged it is considered to have been laid already.

כָּל שֶׁתַּשְׁמִישׁוֹ וְעִיבּוּרוֹ שָׁוֶה – יוֹלְדִים וּמְגַדְּלִים זֶה מִזֶּה. הַכֹּל מְשַׁמְּשִׁין פָּנִים כְּנֶגֶד עוֹרֶף, חוּץ מִשְּׁלֹשָׁה שֶׁמְּשַׁמְּשִׁין פָּנִים כְּנֶגֶד פָּנִים, וְאֵלּוּ הֵן: דָּג וְאָדָם וְנָחָשׁ.

§ The *baraita* continues: **Any** two animals of different species **whose** manner of **intercourse and** time of **gestation are identical can have offspring** together **and** can **raise,** i.e., nurse, the young **of each other.** With regard to the manner of intercourse, **all** species **engage in intercourse** with **the face** of the male **opposite the back of the neck** of the female,[B] meaning that the male comes from behind the female, **except for three** species **that engage in intercourse face-to-face, and they are these: Fish, and humans, and** the **snake.**

וּמַאי שְׁנָא הָנֵי תְּלָתָא? כִּי אֲתָא רַב דִּימִי, אָמְרִי בְּמַעְרְבָא: הוֹאִיל וְדִיבְּרָה עִמָּהֶם שְׁכִינָה.

The Gemara asks: **And what is different** about **these three? When Rav Dimi came** from Eretz Yisrael to Babylonia he reported that **they say in the West,** Eretz Yisrael, the following explanation: They are different **because the Divine Presence spoke with them.** This occurred when the fish swallowed the prophet Jonah (see Jonah 2:11), when Adam and other prophets were spoken to by God, and when the snake caused Adam and Eve to sin (see Genesis 3:14).

תָּנָא: גָּמָל – אָחוֹר כְּנֶגֶד אָחוֹר.

A *tanna* **taught: A camel** engages in intercourse **back to back**[N] with its mate.

תָּנוּ רַבָּנָן: תַּרְנְגוֹלֶת – לְעֶשְׂרִים וְאֶחָד יוֹם, וּכְנֶגְדָּהּ בָּאִילָן – לוּז. כֶּלֶב – לַחֲמִשִּׁים יוֹם, וּכְנֶגְדּוֹ בָּאִילָן – תְּאֵינָה. חָתוּל – לַחֲמִשִּׁים וּשְׁנַיִם יוֹם, וּכְנֶגְדּוֹ בָּאִילָן – תּוּת. חֲזִיר – לְשִׁשִּׁים יוֹם, וּכְנֶגְדּוֹ בָּאִילָן – תַּפּוּחַ. שׁוּעָל וְכָל מִינֵי שְׂרָצִים – שִׁשָּׁה חֳדָשִׁים, וּכְנֶגְדָּם בָּאִילָן – תְּבוּאָה.

§ The Gemara cites a *baraita* that discusses the length of gestation for various animals. **The Sages taught** that **a chicken** hatches **after twenty-one days,**[N] **and corresponding to it** in length of gestation **with regard to trees is the almond,**[N] which ripens twenty-one days after the budding of the flower. **A dog** gives birth **after fifty days, and corresponding to it with regard to trees is the fig. A cat** gives birth **after fifty-two days, and corresponding to it with regard to trees is the mulberry. A pig** gives birth **after sixty days,** and **corresponding to it with regard to trees is the apple. A fox and all types of creeping animals** give birth after **six months, and corresponding to them with regard to trees,** i.e., plants, **is grain.**[B]

בְּהֵמָה דַּקָּה טְהוֹרָה – לַחֲמִשָּׁה חֳדָשִׁים, וּכְנֶגְדָּן בָּאִילָן – גֶּפֶן. בְּהֵמָה גַּסָּה טְמֵאָה – לִשְׁנֵים עָשָׂר חוֹדֶשׁ, וּכְנֶגְדּוֹ בָּאִילָן – דֶּקֶל. טְהוֹרָה – לְתִשְׁעָה חֳדָשִׁים, וּכְנֶגְדָּהּ בָּאִילָן – זַיִת. הַזְּאֵב וְהָאֲרִי וְהַדּוֹב וְהַנָּמֵר וְהַבַּרְדְּלָס וְהַפִּיל וְהַקּוֹף וְהַקִּיפּוֹף – לְשָׁלֹשׁ שָׁנִים, וּכְנֶגְדָּן בָּאִילָן – בְּנוֹת שׁוּעָל.

Small kosher livestock, such as sheep or goats, give birth **after five months, and corresponding to them with regard to trees is the grapevine. Large non-kosher livestock,** such as camels or donkeys, give birth **after twelve months, and corresponding to them with regard to trees is the date palm.** Large **kosher** livestock, such as cows, give birth **after nine months, and corresponding to them with regard to trees is the olive. The wolf, and the lion, and the bear, and the leopard, and the *bardelas*,**[B] **and the elephant, and the monkey, and the long-tailed ape**[N] give birth **after three years, and corresponding to them with regard to trees is the white fig.**

HALAKHA

Most of the egg emerged – בֵּיצָה שֶׁיָּצְתָה רוּבָּהּ: If an egg had mostly emerged on the eve of a Festival and then returned inside its mother and was later laid on the Festival, it is permitted to eat it and handle it on the Festival. Therefore, even if one checked the nest on the eve of a Festival close to nightfall and did not find any eggs, and the next morning he arose early and discovered an egg, it is permitted to be eaten. This is because a chicken does not lay eggs at night, and it is assumed that the majority of the egg emerged the previous day and then returned inside (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 513:6).

NOTES

A camel engages in intercourse back to back – גָּמָל אָחוֹר כְּנֶגֶד אָחוֹר: The reason for this posture is that the camel engages in intercourse in a modest manner (*Anaf Yosef*, citing *Bereshit Rabba*, chapter 76). In other sources, the dog is also included in this category. The *Ben Ish Ḥai* writes that he investigated the matter in his environs and discovered that this is not actually these animals's method of mating. Rather, one must say that as in other matters, the nature of the world has changed.

A chicken hatches after twenty-one days, etc. – תַּרְנְגוֹלֶת לְעֶשְׂרִים וְאֶחָד יוֹם וכו׳: Although this *baraita* is referring to the periods of gestation of various animals it does not specify precisely which period is being discussed, and the commentaries disagree concerning the matter. Rashi explains that with regard to the chicken it is referring to twenty-one days from the time of fertilization until the egg is fully formed. With regard to the almond, which parallels the chicken, it refers to the time from the flowering of the fruit until it becomes ripe. Rashi likewise explains with regard to the dog that the time referred to is from fertilization until the form of the fetus is complete.

Rabbeinu Gershom Meor HaGola explains that it refers to the twenty-one days prior to birth, from the time that the cluster of eggs forms inside the chicken until they hatch. He also offers another explanation, that there are twenty-one days from the time that the eggs are laid until the chicks hatch, which is consistent with the time frame known today as well.

And corresponding to it in length of gestation with regard to trees is the almond [*luz*] – וּכְנֶגְדָּהּ בָּאִילָן לוּז: Rashi explains that the *luz* is a type of small nut. *Tosafot* cite another explanation that the *luz* is an almond, as is evident from other rabbinic sources as well (see, e.g., Jerusalem Talmud, *Ta'anit* 4:5).

And the long-tailed ape [*kipof*] – וְהַקִּיפּוֹף: Rashi explains that this refers to a type of monkey with a tail. There is a variant text that reads *kipod*, instead of *kipof*, meaning hedgehog.

BACKGROUND

The face of the male opposite the back of the neck of the female – פָּנִים כְּנֶגֶד עוֹרֶף: This statement that animals generally mate in a front-to-back position is true today as well. In the case of the camel, however, they do not mate today in a back-to-back position, as the Gemara states. The Gemara may mean that it mates in a sitting position, in contrast to other animals.

The times of gestation and birth – זְמַנֵּי הָעִבּוּר וְהַהוֹלָדָה: The times mentioned here with regard to plants refer to different periods in their development process. Some, such as the almond and the olive, refer to the period from budding, when the flower opens, and until the ripening of the fruit. The case of the fig appears to refer to the period beginning with the first appearance of the fruit until its ripening. Concerning ripening, it may be referring to the ripening of the first fruits alone, or the ripening of a majority of the fruits. Since there are different strains of each fruit, the duration of the times may fluctuate even with regard to each specific fruit.

Concerning the gestation times of animals, some of those mentioned here, such as five months for small livestock, correspond with those known today, and others, such as the times for the pig, lion, and bear, do not. This may be because the Gemara is referring to specific species, or due to changes that have occurred in nature. In addition, the periods referred to may include the entire duration of pregnancy or just the stage where the formation of the fetus is complete.

***Bardelas* – בַּרְדְּלָס:** It appears that three distinct spotted animals are referred to by this name: The leopard or panther, the hyena, and a third generally referred to as a genet, which is similar to a weasel and has a black spotted coat. Its scientific name is *Genetta genetta*. It is unknown which of these the Gemara is referring to here.

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אֶפְעֶה – לְשִׁבְעִים שָׁנָה, וּכְנֶגְדּוֹ בָּאִילָן – חָרוּב. חָרוּב זֶה, מִשְּׁעַת נְטִיעָתוֹ עַד שְׁעַת גְּמַר פֵּירוֹתָיו – שִׁבְעִים שָׁנָה, וִימֵי עִיבּוּרוֹ שָׁלֹשׁ שָׁנִים. נָחָשׁ – לְשֶׁבַע שָׁנִים, וּלְאוֹתוֹ רָשָׁע לֹא מָצִינוּ חָבֵר, וְיֵשׁ אוֹמְרִים: מוּכְסָסִים.

The *baraita* continues: **A viper**[BN] gives birth **after seventy years, and corresponding to it with regard to trees is the carob.** In the case of **this carob,** the period **from the time of its planting until the time of the ripening of its fruit is seventy years, and the length of its gestation is three years.**[N] **A snake** is born **after seven years, and for that wicked** animal **we have not found a counterpart** among trees. **And some say** that ***mukhsasim***[N] are the equivalent, as they ripen after seven years.

מְנָא הָנֵי מִילֵּי? אָמַר רַב יְהוּדָה אָמַר רַב, וּמָטוּ בָּהּ מְשׁוּם דְּרַבִּי יְהוֹשֻׁעַ בֶּן חֲנַנְיָא, שֶׁנֶּאֱמַר: ״אָרוּר אַתָּה מִכָּל הַבְּהֵמָה וּמִכֹּל חַיַּת הַשָּׂדֶה״, אִם מִבְּהֵמָה נִתְקַלָּלָה, מֵחַיָּה לֹא כָּל שֶׁכֵּן?

The Gemara asks: **From where is this matter,** that the gestation period of a snake is seven years, derived? **Rav Yehuda says** that **Rav says, and** some **determined it** to be **in the name of Rabbi Yehoshua ben Ḥananya:** It is derived from **that** which **is stated** with regard to the punishment of the snake for causing Adam and Eve to sin: **"Cursed are you from among all animals, and from among all beasts of the field"** (Genesis 3:14), in that your gestation period should be longer than all of them. Now, why does the verse mention the beasts of the field, i.e., undomesticated animals? **If** the snake **was cursed** more **than the domesticated animals,** then **all the more so** is it **not** clear that it was cursed more **than the undomesticated animals?** The shortest gestation period of domesticated animals, which is five months for a goat, is longer than the shortest gestation period among undomesticated animals, which is fifty-two days for a cat.

אֶלָּא לוֹמַר לְךָ: כְּשֵׁם שֶׁנִּתְקַלְּלָה הַבְּהֵמָה מֵחַיָּה אֶחָד לְשִׁבְעָה, וּמַאי נִיהוּ? חֲמוֹר מֶחָתוּל – כָּךְ נִתְקַלֵּל הוּא מִבְּהֵמָה אַחַת לְשֶׁבַע, דְּהָוֶה לֵיהּ שַׁבּ שְׁנֵי.

Rather, the verse mentions the beasts of the field **to tell you: Just as the domesticated animals were cursed** more **than the undomesticated animals by** a proportion of **one to seven;** the Gemara interjects: **And** with regard to **what** case **is that?** It is with regard to **a donkey,** whose gestation period as mentioned is twelve months, compared **to a cat,** whose gestation period is fifty-two days. Seven times longer than fifty-two days is 364 days, which means that the gestation period of the donkey, which is one year, is almost exactly seven times longer than that of the cat. Rav Yehuda continues: **So too,** the snake **was cursed** more **than domesticated animals,** i.e., the donkey, in a proportion of **one to seven, which is** a total of **seven years.**

אִימָא: כְּשֵׁם שֶׁנִּתְקַלְּלָה חַיָּה מִבְּהֵמָה אַחַת לִשְׁלֹשׁ שָׁנִים, וּמַאי נִיהוּ? אֲרִי מֵחֲמוֹר – כָּךְ נִתְקַלֵּל הוּא מֵחַיָּה אַחַת לִשְׁלֹשׁ שָׁנִים, דְּהָוֶה לֵיהּ תֵּשַׁע שָׁנִים!

The Gemara challenges: **Say** that the verse can be interpreted as follows: **Just as the undomesticated animals were cursed** more **than the domesticated animals** by a measure of **one** year **to three years;** the Gemara interjects: **And** in **what** case **is that?** It is in the case of **a lion,** whose gestation period is three years, compared **to a donkey,** whose gestation period is one year. The Gemara continues its challenge: **So too,** the snake **was cursed** more **than the undomesticated animals,** i.e., the lion, by a proportion of **one** year **to three years, which is nine years.**

BACKGROUND

Viper – אֶפְעֶה: This animal, which is already mentioned in the Bible, is the Palestine saw-scaled viper, *Echis coloratus*, which is the most dangerous poisonous snake found in Eretz Yisrael. It is found in wilderness areas rather than in populated locations, and is described in rabbinic literature as having special capabilities.



Palestine saw-scaled viper photographed near Jerusalem, Israel

NOTES

Viper [*efeh*] – אֶפְעֶה: *Tosafot* explain that this refers to a hyena. This explanation is based on a statement of Rav Yosef (*Bava Kamma* 16a) which refers to an *appa*, as well as based on the *Targum* to the Prophets. From other sources it appears to refer to a unique type of snake known as *akhas* by the Sages, which has special capabilities (see Job 20:16 and *Mekhilta*, Exodus 15:22) and of which there is only one male and one female found in the world (see Rashi on Isaiah 30:6).

And the length of its gestation is three years – וִימֵי עִיבּוּרוֹ שָׁלֹשׁ שָׁנִים: Rabbeinu Gershom Meor HaGola explains that this refers to the period of budding, which for a carob tree is the final three years of the seventy years that pass from the time of planting. Some wonder how the term gestation can be applied to a tree (*Tosefot HaRosh* and *Tosafot Ḥitzoniyyot*). One suggestion offered is that this three-year period refers to the *efeh*, which conceives when it is seventy years old and gives birth three years later (see *Tosefot HaRosh*).

***Mukhsasim* – מוּכְסָסִים:** Rashi explains that this is a type of white fig similar to that known as *benot shuaḥ*. According to the Maharsha, the statement here that the length of this tree's gestation corresponds to that of the snake is according to the opinion that the Tree of Knowledge from which Adam was convinced to eat by the snake was a fig tree. *Tosafot*, citing the midrash, explains that the reason why this fig is termed *benot shuaḥ* is that it caused Adam to become mortal and eventually be buried in a pit or grave [*shuḥa*]. Rashi notes that the fruit *mukhsas* is not exactly the same as the *benot shuaḥ*, as the Gemara previously stated that *benot shuaḥ* produce fruit over the span of three years, not seven. The *Shita Mekubbetzet*, citing *Tosafot*, suggests it does refer to the same tree, and the seven years mentioned here are counted from the time of planting while the three years mentioned earlier in the context of *benot shuaḥ* begin from the time that it buds.

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מִי כְּתִיב ״מִכָּל הַחַיָּה וּמִכָּל הַבְּהֵמָה״? ״מִכָּל הַבְּהֵמָה וּמִכָּל הַחַיָּה״ כְּתִיב, אֶלָּא הוּא מִבְּהֵמָה שֶׁנִּתְקַלְּלָה מֵחַיָּה.

Is it written: Cursed are you **from among all beasts, and from among all animals?** No, **it is written: "From among all animals, and from among all beasts,"** meaning that **it is cursed from among the domesticated animals, which were cursed from among the undomesticated animals.**

וְאֵימָא: כְּשֵׁם שֶׁנִּתְקַלְּלָה בְּהֵמָה מֵחַיָּה אֶחָד לִשְׁלֹשׁ, וּמַאי נִיהוּ – עֵז מֶחָתוּל, כָּךְ נִתְקַלֵּל הוּא מִבְּהֵמָה אֶחָד לִשְׁלֹשׁ, דַּהֲוָה לֵיהּ חֲמֵישׁ יַרְחֵי!

The Gemara challenges: Why must it mean that the snake was cursed more than the donkey in the same proportion that the donkey was cursed more than the cat? **But say** instead that **just as the domesticated animals were cursed** more **than the undomesticated animals** by a measure of **one to three;** the Gemara interjects: **And** in **what** case **is that?** It is in the case of **a goat,** whose gestation period is five months, compared **to a cat,** whose gestation period is fifty-two days. The Gemara continues its challenge: **So too,** the snake **was cursed** more **than the domesticated animals,** i.e., the goat, by a proportion of **one to three, which is fifteen months.**

אִיבָּעֵית אֵימָא: ״מִכָּל הַבְּהֵמָה״ כְּתִיב. אִי בָּעֵית אֵימָא: קְלָלָה הוּא, קְלָלָה שָׂדֵי עִילָּוֵיהּ.

The Gemara answers: **If you wish, say** that **it is written:** "Cursed are you **from among all animals,"** including the most accursed of them, i.e., the donkey. **If you wish, say** instead that since **it is a curse** that the snake received here, the verse **imposes upon it** the most extreme **curse** that can be derived from the text.

אֲמַר לֵיהּ קֵיסָר לְרַבִּי יְהוֹשֻׁעַ בֶּן חֲנַנְיָה: נָחָשׁ לְכַמָּה מִיעַבַּר וּמוֹלִיד? אֲמַר לֵיהּ: לְשַׁב שְׁנֵי. וְהָא סָבֵי דְּבֵי אַתּוּנָא אַרְבְּעִינְהוּ, וְאוֹלִיד לְתַלָּת? הָנְהוּ מִיעַבְּרִי הָווּ מֵעִיקָּרָא אַרְבַּע. וְהָא קָמְשַׁמְּשִׁי שָׁמוֹשֵׁי! אִינְהוּ נַמִי מְשַׁמְּשִׁי כְּאָדָם.

§ With regard to the gestation time of a snake, the Gemara relates that **the** Roman **emperor**[B] **said to Rabbi Yehoshua ben Ḥananya:**[P] In the case of **a snake, after how long** a period of **gestation does it give birth?** Rabbi Yehoshua ben Ḥananya **said to him: After seven years.** The emperor said to him: **But the elders,** i.e., the sages, **of the school of Athens**[B] **bred** snakes **and they gave birth after three** years. Rabbi Yehoshua ben Ḥananya responded: **Those** snakes **were** already **pregnant from beforehand** for **four** years. The emperor asked: **But they engaged in intercourse,** and animals do so only in order to give birth, not when they are already pregnant. Rabbi Yehoshua responded: Snakes **also engage in intercourse like people,** i.e., they do not do so solely for reproduction.

וְהָא חַכִּימֵי אִינְהוּ? אֲנַן חַכִּימִינַן מִינַּייהוּ. אִי חַכִּימַת – זִיל זְכִינְהוּ, וְאַיְתִינְהוּ לִי! אֲמַר לֵיהּ: כַּמָּה הָווּ? שִׁיתִּין גַּבְרֵי.

The emperor said to him: **But** how can you disagree with the sages of Athens? **Aren't they wise?** Rabbi Yehoshua ben Ḥananya responded: **We are wiser than they.**[N] The emperor said: **If you are wiser** than they, then **go defeat them** in debate **and bring them to me.** Rabbi Yehoshua **said to him: How many are there?** The emperor answered: **Sixty men.**

אֲמַר לֵיהּ: עֲבִיד לִי סְפִינְתָּא דְּאִית בָּהּ שִׁיתִּין בָּתֵּי, וְכָל בֵּיתָא אִית בָּהּ שִׁיתִּין בִּיסְתַּרְקֵי. עֲבַד לֵיהּ. כִּי מָטָא לְהָתָם לְבֵי טַבָּחָא, אַשְׁכְּחֵיהּ לְהַהוּא גַּבְרָא דְּקָא פָּשֵׁיט חִיוָתָא. אֲמַר לֵיהּ: רֵישָׁךְ לְזַבּוּנֵי? אֲמַר לֵיהּ: אִין. אֲמַר לֵיהּ: בְּכַמָּה? אֲמַר לֵיהּ: בְּפַלְגָּא דְּזוּזָא. יְהַב לֵיהּ.

Rabbi Yehoshua ben Ḥananya **said to him: Construct a ship that has sixty rooms for me, and each room** should **have sixty mattresses** [*bistarkei*][L] **in it.** The emperor **constructed** it **for him.** Rabbi Yehoshua then set out on the ship for Athens. **When** he **arrived there,** he entered **a butcher shop** and **found a certain man,** the butcher, **flaying an animal.** Rabbi Yehoshua **said to him: Is your head for sale?** The butcher **said to him: Yes** it is. Rabbi Yehoshua **said to him: For how much** is it being sold? The butcher **said to him: For half a dinar.** Rabbi Yehoshua **gave him** the money.

BACKGROUND

Emperor – קֵיסָר: The emperor referred to here appears to be Hadrian, who ruled during the years 117–138 CE. He admired Greek culture, and during his reign encouraged his subjects to live according to it. Rabbinic literature is replete with stories of conversations that he had with talmudic Sages on various topics. It appears that at the beginning of his reign he enjoyed positive relations with the Jews, and this is most likely the period of history in which this incident in the Gemara occurred. There was even hope that he would allow for the rebuilding of the Temple in his time (see *Bereshit Rabba* 64:10). Hadrian ultimately wished to establish the Temple as a Roman-Hellenist temple, and this matter was the primary cause of the Bar Kokheva rebellion.

Elders of the school of Athens – סָבֵי דְּבֵי אַתּוּנָא: The Greeks were widely known in the ancient world as possessing much wisdom, and the sages of Athens were considered some of the greatest scholars of the time. Athens began to lose its status as a center of political power in the time of the Second Temple, with Alexander the Great's ascent to power, and such was the case during the period of the Romans as well. Nevertheless, it was still considered to be the greatest cultural center of Greece, and many Romans visited there to study the wisdom of the Greek sages. Emperor Hadrian, who appears to be the emperor referred to here, greatly admired Greek culture and restored the city of Athens to its original prestige. He built many magnificent buildings and strove to make the city a cultural center for the entire Roman Empire.

PERSONALITIES

Rabbi Yehoshua ben Ḥananya – רַבִּי יְהוֹשֻׁעַ בֶּן חֲנַנְיָה: Rabbi Yehoshua ben Ḥananya was one of the leading Sages in the generation following the destruction of the Second Temple. He was renowned among the Jewish people as well as among the other nations not only as exceedingly proficient in the wisdom of the Torah, but also as extremely knowledgeable in all areas of secular wisdom and science, from astronomy to zoology. He was invited to Rome many times together with other leaders, and he met with the emperor as well on a number of occasions. During these meetings many subjects were discussed, including those related to wisdom and the sciences.

LANGUAGE

Mattresses [*bistarkei*] – בִּיסְתַּרְקֵי: Apparently derived from the Middle Iranian word bistarak, meaning a bedding or cover.

NOTES

We are wiser than they – אֲנַן חַכִּימִינַן מִינַּייהוּ: The commentaries discuss at length why the Gemara elaborates on so many seemingly irrelevant details of this story as well as the humorous and nonsensical riddles posed by the sages of Athens. Some suggest that they are intrinsically unnecessary but are cited to illustrate that the wisdom of the Torah Sages exceeds that of the gentile sages (*Iyyun Ya'akov*). Many commentaries explain that the riddles which appear to be humorous or nonsensical in fact allude to fundamental differences between secular philosophy and the Torah's perspective. These issues include the status of the Jews as the chosen people and their fate until the Messiah arrives (see Maharsha), as well as the clash between a strictly physical perspective on the world and the Torah's emphasis on the importance of the soul and the World-to-Come (see Maharal and *Etz Yosef*).

Other commentaries, such as the Maharal, suggest that not only the riddles but also the details of the story, such as how Rabbi Yehoshua succeeded in entering the stronghold of the sages of Athens, defeating them in debate, and bringing them back on the ship, are all a parable for various facets of wisdom. See also *Ḥiddushei Ge'onim* found in the *Ein Ya'akov*, citing Rabbi Yosef Shaul Nathanson, as well as *Likkutei Moharan*, who offer a completely different explanation of the significance of the story.

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לְסוֹף אֲמַר לֵיהּ: אֲנָא רֵישָׁא דְּחֵיוָתָא אֲמַרִי לָךְ? אֲמַר לֵיהּ: אִי בָּעֵית דַּאֲשְׁבְּקָךְ, סְגֵי אַחֲוֵי לִי פִּיתְחָא דִּבֵי אַתוּנָא! אֲמַר לֵיהּ: מִסְתַּפֵּינָא, דְּכָל דְּמַחֲוֵי קָטְלִי לֵיהּ. אֲמַר לֵיהּ: דְּרִי כְּרִיכָא דְּקַנְיָא, וְכִי מָטֵית לְהָתָם זְקָפֵהּ כְּמַאן דְּקָא מִתְפַּח.

After Rabbi Yehoshua paid the butcher, **he said to him:** Did **I say to you** that I wanted **the head of the animal?** I was referring to your head, and you must now keep your word and give me your head. Rabbi Yehoshua **said to him: If you wish for me to let you be, go** and **show me the entrance to the school of** the sages of **Athens.** The butcher **said to him: I am afraid, as they kill anyone who shows** its location to another. Rabbi Yehoshua **said to him: Carry a bundle of reeds, and when you arrive there, stand it up like one who is resting,** to mark the location. The butcher did this, and Rabbi Yehoshua successfully found the entrance.

אַשְׁכַּח דְּרַבָּנַאי מִגַּוַּאי וְדַרְבָּנַאי מִבָּרַאי, דְּאִי חֲזוּ כַּרְעָא דְּעָיְילָא – קָטְלִי לְהוּ לְבָרַאי, וּדְנַפְקָא – קָטְלִי לְהוּ לְגַוַּאי.

Rabbi Yehoshua **found guards** stationed **on the inside and guards** stationed **on the outside** to ensure that no one could enter or exit. They also spread sand on the ground in the entranceway so that they could detect if anyone entered or left. **If they saw footsteps that were entering** they would **kill the outer** guards for allowing people to enter, **and** if they saw footsteps **that were exiting** they would **kill the inner** guards for allowing people to leave.

אַפְּכָהּ לְסַנְדָּלֵיהּ – קָטְלִי לְהוּ לְגַוַּאי, אַפְּכָהּ לְסַנְדָּלֵיהּ – קָטְלִי לְהוּ לְכוּלְּהוּ.

Rabbi Yehoshua **reversed his sandal** so it was facing away from the entrance, walked on the sand, and snuck away, thereby creating the appearance of someone who had left the building. When the authorities saw the footsteps, **they killed the inner** guards. Rabbi Yehoshua then returned, **reversed his sandal,** and made footsteps in the sand indicating that someone had entered the building. They then **killed all** the guards,[N] including the outer ones, and Rabbi Yehoshua succeeded in entering the building.

אַשְׁכַּח יָנּוּקֵי מִלְּעֵיל, סָבֵי מִלְּתַחַת. אֲמַר: אִי יָהֵיבְנָא שְׁלָמָא לְהָנֵי – קָטְלִי לִי הָנֵי, סָבְרִי: אֲנַן עֲדִיפִינַן, דַּאֲנַן קַשִּׁינַן טְפֵי וְאִינְהוּ דַּרְדְּקֵי.

Rabbi Yehoshua **found the younger** sages sitting in the **upper,** more prominent section,[N] and **the elder** ones in the **lower** section. **He said** to himself: I must first greet the younger sages, as they are sitting in the upper section, prior to the elder sages; but **if I greet these** younger sages first, **those** elder sages will **kill me,** as **they maintain: We are better, because we are older and they are children.**

אֲמַר: שְׁלָמָא לְכוּ! אֲמַרוּ לֵיהּ: מַאי עֲבִידְתָּךְ? אֲמַר לְהוּ: אֲנָא חָכִימָא דְּיהוּדָאֵי אֲנָא, בָּעֵינָא לְמִיגְמַר חָכְמְתָא מִינַּיְיכוּ. אִי הָכִי, נִיבָּעֵי לָךְ! אֲמַר לְהוּ: לְחַיֵּי! אִי זָכִיתוּ – כָּל דְּבָעֵיתוּ עֲבִידוּ בִּי, וְאִי זָכֵינָא בְּכוּ – אֵיכְלוּ גַּבַּאי בְּסְפִינְתָא.

Rabbi Yehoshua **said: Greetings to you,** but did not directly address either group. **They said to him: What are you doing** here? Rabbi Yehoshua **said to them: I am a Sage of the Jews,** and **I desire to learn wisdom from you.** They said to him: **If so, we will ask you** questions and see if you are worthy of this privilege. Rabbi Yehoshua **said to them: Very well. If you win, you may do to me anything you wish, and if I defeat you,** then **eat with me on my ship.**

אֲמַרוּ לֵיהּ: הֲהוּא גַּבְרָא דְּאָזֵיל וּבָעֵי אִתְּתָא וְלָא יָהֲבוּ לֵיהּ, מַאי חֲזֵי לֵיהּ דְּאָזֵיל הֵיכָא דְּמַדְּלוּ מִינַּיְיהוּ? שְׁקַל סִיכְּתָא, דָּצֵי לְתַתָּאי – לָא עָאל, לְעִילָּאי – עָאל. אֲמַר: הַאי נַמִי, מִיתְרְמֵי בַּת מַזָּלֵיהּ.

The sages of Athens **said to him:** In the case of **a certain man who goes and asks** to marry **a woman**[N] **and** her family **does not give** her **to him, why would he see** fit **to go to** a family **that is greater than** the first? Rabbi Yehoshua **took a peg** and **stuck it** into the **lower** part of the wall, but it did **not go in.** He then stuck it **into the upper** portion of the wall where there was a hole, and it **went in. He said** to them: In **this** case **too,** where he goes to a more distinguished family than the first, perhaps he will **find the girl destined** for him.

NOTES

They then killed all the guards – קָטְלִי לְהוּ לְכוּלְּהוּ: The Maharal explains that the killing of the guards, like the other references to killing in this passage, is symbolic. He suggests that the sages of Athens concealing themselves within their stronghold and their posting of guards symbolize a divide between the world of the intellect and the physical world. Rabbi Yehoshua's actions, including causing the guards to be killed, symbolize the repudiation of this worldview and the establishment of the Torah's viewpoint, which is that one may not separate between these two worlds. In this manner, the Maharal explains the symbolism of the reversing of the sandal as allowing for passage between these two worlds.

He found the younger sages sitting in the upper section, etc. – אַשְׁכַּח יָנּוּקֵי מִלְּעֵיל וכו': According to Rashi and Rabbeinu Gershom Meor HaGola, this formation was constructed as an intentional trap to snare anyone who might enter and thereby justify killing them for insulting either the older sages or the younger sages. Others explain that this symbolized a fundamental principle of the sages of Athens that the young are superior to the old in every way, including in wisdom. Rabbi Yehoshua therefore hinted to them through his method of greeting that only through peace and mutual respect can one arrive at the proper conclusions (Rabbi Yosef Shaul Nathanson).

A certain man that goes and asks to marry a woman – הֲהוּא גַּבְרָא דְּאָזֵיל וּבָעֵי אִתְּתָא: This question contains an element of criticism against the Jews by the Athenian sages: If you Jews do not have success in matters relating to practical knowledge, as you are a downtrodden nation, then how can you possibly succeed in the analytical realm and therefore desire to learn from us? Rabbi Yehoshua responds that just as an individual marries a soul mate who is appropriate for him, so too, each nation is adept at grasping particular types of wisdom, and perhaps the Jews excel at analytical wisdom.

The Maharal explains this question in a different manner: How can the Jews possibly enter the World-to-Come, if even in this world, which is on a lower level, they are accorded such a lowly status? Rabbi Yehoshua answers that success in this world is not an accurate gauge of the Jews' status. Rather, their primary uniqueness is their connection to the Divine, which renders them more suited to the spiritual realm and the World-to-Come than to this world.

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גַּבְרָא דְּאוֹזִיף וְטָרִיחַ, מַאי חָזֵא דַּהֲדַר אוֹזִיף? אֲמַר לְהוּ: גַּבְרָא אָזַל לְאַגְמָא, קָטַל קָמָּא טוּנָא וְלָא מָצֵי בֵּיהּ – קָטֵיל וּמַנַּח עִילָּוֵיהּ, עַד דְּאִיתְרְמֵי אִינִישׁ מַדְלֵי לֵיהּ.

The sages of Athens asked him another question: In the case of **a man who lends** money to an individual and the borrower does not repay the loan, **and** the lender **repossesses** the borrower's property as payment instead,[N] **why would** he **see** fit **to lend** to others **again?** Rabbi Yehoshua **said to them:** This is what people do: If **a man goes to the pond, initially cuts a bundle** of reeds, **but** finds that he **cannot** lift **it,** he does not stop cutting wood. Instead, he **cuts** more wood **and places** it **upon** the first, **until a person happens** to pass by and helps him **raise it** upon his shoulders, so that he can carry it home. So too, a person continues to lend based on the assumption that he will eventually find an appropriate borrower.

אֲמַרוּ לֵיהּ: אֵימָא לָן מִילֵּי דִּבְדִיאֵי! אֲמַר לְהוּ: הֲוָה הַהוּא כּוּדַנְיְתָא דְּיָלִידָא, וַהֲוָה תָּלֵי לֵיהּ פִּיתְקָא וְכָתַב בֵּיהּ דְּמֵסִיק בְּבֵי אַבָּא מֵאָה אַלְפָּא זוּזֵי. אֲמַרוּ לֵיהּ: וְכוּדַנְיְתָא מִי יָלְדָה? אֲמַר לְהוּ: הֵי נִיהוּ מִילֵּי דִּבְדִיאֵי.

The sages of Athens **said to him: Say to us a matter of nonsense.**[B] Rabbi Yehoshua **said to them: There was a certain mule that gave birth, and a note was hanging on** the newborn mule's neck **and on it was written that it is owed 100,000 dinars by its father's household. They said to him: But can a mule give birth?** Rabbi Yehoshua **said to them: This is** why it is **a matter of nonsense,** as it is impossible for a mule to give birth.

מִילְחָא כִּי סָרְיָא, בְּמַאי מַלְחִי לָהּ? אֲמַר לְהוּ: בְּסִילְתָא דְּכוּדַנְיְתָא. וּמִי אִיכָּא סִילְתָא לְכוּדַנְיְתָא? וּמִילְחָא מִי סָרֵי?

The sages of Athens then asked another question: **When salt is spoiling, with what does one salt it** to preserve it? Rabbi Yehoshua **said to them: With the placenta of a mule.** They said to him: **But is there a placenta of a mule?** Rabbi Yehoshua said to them: **And does salt spoil?**

בְּנֵי לָן בֵּיתָא בַּאֲוִירָא דְּעָלְמָא! אֲמַר שֵׁם, תְּלָא בֵּין רְקִיעָא לְאַרְעָא. אֲמַר לְהוּ: אַסְּקוּ לִי לִיבְנֵי וְטִינָא. מְצִיעֲתֵיהּ דְּעָלְמָא הֵיכָא? זְקְפָה לְאֶצְבְּעֵתֵיהּ, אֲמַר לְהוּ: הָכָא. אֲמַרוּ לֵיהּ: וּמִי יֵימָר? אַיְיתוּ אַשְׁלֵי וּמְשַׁחוּ!

The sages of Athens **said to him: Build us a house in the air**[N] **of the world.** Rabbi Yehoshua **uttered a Name** of God and **hovered between the sky and the earth. He said to them: Bring up to me bricks and mortar** and I will build you a house here. They asked him: **Where is the center of the world?** Rabbi Yehoshua **raised his finger** and **said to them: Here. They said to him: And who says** that you are correct? He said to them: **Bring ropes and measure.**

אִית לָן בֵּירָא בְּדַבְרָא, עַיְילָא לְמָתָא! אֲמַר לְהוּ: אֲפְשִׁילוּ לִי חַבְלֵי מִפָּארֵי וְאַעַיְילֵיהּ. אִית לָן רֵיחָיָא דְּתָבְרָא, חַיְּטֵיהּ! אֲמַר: כְּרוֹכוּ לִי מִינֵּיהּ גַּרְדֵּי וְאֵיחַיְּטֵיהּ.

They said to him: **We have a pit in the field; bring it to the city.** Rabbi Yehoshua **said to them: Braid ropes** made **of bran for me and I will bring it** to the city with them. They then said to him: **We have a mill that broke; sew it** back together. Rabbi Yehoshua **said** to them: **Pull out threads from** the mill **for me and I will sew them** together.

מִשְׂרָא דְּסַכִּינֵי בְּמַאי קָטְלִי? בְּקַרְנָא דְּחַמְרָא. וּמִי אִיכָּא קַרְנָא לְחַמְרָא? וּמִי אִיכָּא מִשְׂרָא דְּסַכִּינֵי?

They asked him another question: **With what does one harvest a field of knives?**[N] Rabbi Yehoshua answered: **With the horn of a donkey.** They said to him: **But is there** such an item as **a horn of a donkey?** He said to them: **But is there** such a thing as **a field of knives?**

אַיְיתוּ לֵיהּ תְּרֵי בֵּיעֵי, אֲמַרוּ לֵיהּ: הֵי דְּזַגְתָּא אוּכַּמְתִּי וְהֵי דְּאִיתְּתָא חִיוְּורְתִּי? אַיְיתֵי לְהוּ אִיהוּ תְּרֵי גְּבִינֵי, אֲמַר לְהוּ: הֵי דְּעִיזָא אוּכַּמְתִּי וְהֵי דְּעִיזָא חִיוְּורְתִּי?

They brought him two eggs and **said to him: Which is** the egg **of a black hen and which is** the egg **of a white hen?** Rabbi Yehoshua **brought them two cheeses,** and **said to them: Which** is the cheese **from the black goat and which** is **from the white goat?**

וּרְצוֹצָא דְּמִית, מֵהֵיכָא נָפֵיק רוּחֵיהּ? מֵהֵיכָא דְּעַל נְפַק. אַחֲוֵי לָן מָנָא דְּלָא שָׁוֵי חֲבִילֵיהּ! אַיְיתוּ כָּל חַד וְחַד בּוּדְיָא, פַּשְׁטוּהָ, לָא הֲוָה עָיֵיל בְּתַרְעָא. אֲמַר לְהוּ: אַיְיתוּ מָרֵי סִיתְרוּהָ; הַיְינוּ מָנָא דְּלָא שָׁוֵי חֲבִילֵיהּ.

They asked him: **And** in the case of **a chick that dies** inside the egg, **from where does its spirit exit?** Rabbi Yehoshua said to them: **From where it enters, it departs.** They said to him: **Show us a utensil that is not worth the damage** that it causes. Rabbi Yehoshua said to them: **Each one of you bring a mat** and **spread it out.** When they did so, each mat **did not enter the gate** due to its size. Rabbi Yehoshua **said to them: Bring axes** and **break** the gate so that you can bring it inside. **This is a utensil that is not worth its damage.**

NOTES

A man who lends money and repossesses, etc. – גַּבְרָא דְּאוֹזִיף וְטָרִיחַ וכו': According to Rashi and Rabbeinu Gershom Meor HaGola, the point of this question is why the lender chooses to lend money to other individuals despite not being recompensed by the first borrower. The Maharsha suggests that the Athenian sages were referring to a case where the lender lends money to the same person as before, from whom he just appropriated property for not returning the loan. He explains that the lender symbolizes God, who has exiled the Jews due to not fulfilling their responsibilities. Why, then, ask the sages, do you Jews believe that God will redeem you again and reestablish His covenant with you? Rabbi Yehoshua responded that each generation performs whatever mitzvot it is capable of and studies the sections of the Torah that it cannot fulfill. Ultimately, the Messiah will come, allowing the Jews to return to their land and to fulfill the Torah in its entirety.

Build us a house in the air, etc. – בְּנֵי לָן בֵּיתָא בַּאֲוִירָא וכו': The Maharsha explains this as an attack against the Jews: How can you claim that God remains with you following the destruction of the Temple, if a location where the Divine presence can rest no longer exists? Alternatively, the sages of Athens are questioning how the Jews can survive without a defined, national homeland, culture, or national character that all other nations have (see *Dover Tzedek*). Rabbi Yehoshua responds that the house of the Jews is God's Name, which has no physical essence or defined location. See the Maharal, who wonders how Rabbi Yehoshua could make use of the Divine Name merely for the purpose of debating the sages of Athens, and explains this narrative in a manner not in accordance with its straightforward meaning.

A field of knives, etc. – מִשְׂרָא דְּסַכִּינֵי וכו': Some commentaries explain this allegorically to mean that the fields with which Esau was blessed were promised to him with the verse: "On your sword you shall live" (Genesis 27:40). These fields will be cut down by the donkey of the Messiah. Although the Messiah with his horn does not necessarily have any physical strength, as it is written: "Lowly and riding upon a donkey" (Zechariah 9:9), in any case the power of such a field of knives owned by Esau and his descendants also does not last forever, but only until his merit expires. After that point, the Messiah will be victorious (*Pardes HaḤokhma*).

BACKGROUND

Matter of nonsense – מִילֵּי דִּבְדִיאֵי: Riddles concerning impossible occurrences appear frequently in wisdom literature, in both that of the ancient Greeks and that of the ancient Near East, particularly as part of the confrontation between the sages of different nations who represented different cultures. For example, in the Aramaic book *The Parables of Aḥikar*, which was written in the beginning of the Second Temple period, many riddles are mentioned that are similar to the ones cited in the Gemara here, such as how to build a house in the sky, weave a broken mill, construct ropes from sand, and the like.

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אַיְתִינְהוּ, כָּל חַד וְחַד כִּי חֲזִי שִׁיתִּין בֵּיסְתַּרְקֵי, אֲמַר: כּוּלְּהוּ חַבְרַאי לְהָכָא אָתוּ. אֲמַר לֵיהּ לְסַפּוּנָא: שְׁרֵי סְפִינְתָּךְ. בְּהַדֵי דְּקָאָתוּ שְׁקַל עַפְרָא מֵעַפְרַיְיהוּ,

§ After Rabbi Yehoshua defeated the sages of Athens in debate, **he brought them** to his ship as they had agreed. He then brought each one to a different room. **When each one saw the sixty mattresses** in his room, **he said** to himself: **All of my colleagues are coming here,** and waited for them without attempting to leave. Rabbi Yehoshua **said to the sailor: Release your ship,** i.e., begin sailing. **While they were coming** to the emperor in Rome, **he took** out some **dirt** that he had taken **from the dirt of** Athens.

Perek **I**
Daf **9** Amud **a**

כִּי מָטוּ לְבֵי בְלִיעֵי, מְלָא כּוּזָא דְּמַיָּא מִבֵּי בְלִיעֵי. כַּד אֲתוּ, אוֹקְמִינְהוּ קַמֵּי קֵיסָר. חֲזִנְהוּ דְּהָווּ מְעַנְּנִי, אֲמַר לֵיהּ: הָנֵי לָאו נִינְהוּ! שְׁקַל מֵעַפְרַיְיהוּ וּשְׁדָא עִילָּוַיְיהוּ, אַקְשׁוּ לְאַפֵּי מַלְכָּא. אֲמַר לֵיהּ: כָּל דְּבָעֵית עֲבֵיד בְּהוּ.

When they reached the House of the Swallowed,[N] a location in the sea where the water absorbs everything in its vicinity, Rabbi Yehoshua ben Ḥananya **filled up a small jug of water from the House of the Swallowed. When they arrived, he presented** the sages of Athens **before the emperor.** The emperor **saw that** the sages of Athens **were suffering** due to their having been taken captive. He **said to** Rabbi Yehoshua: **These** individuals **cannot be** the sages of Athens, because those sages are strong and arrogant. Rabbi Yehoshua **took** some **of the dirt** that he had taken from Athens **and threw** it **upon them.** When they smelled the scent of their own soil they began to act like themselves again, and **they spoke with arrogance before the king.** Upon hearing them, the emperor **said to** Rabbi Yehoshua: You may **do with them whatever you wish.**

אַיְיתִינְהוּ מַיָּא דְּאַיְיתִי מִבֵּי בְלִיעֵי, שְׁדִינְהוּ בְּתִיגְדָּא, אֲמַר לְהוּ: מַלְּיוּהּ לְהוּ וְאִיזִילוּ לְכוּ. מַלּוּ וּשְׁדוּ בֵּיהּ קַמָּאֵי קַמָּאֵי וּבְלַע לְהוּ, מִלּוּ עַד דְּשִׁמְּיט כִּתְפַיְיהוּ, וּבָלֵי לְהוּ וְאַזּוּל.

Rabbi Yehoshua **brought the water that he had brought from the House of the Swallowed** and **poured it into a utensil** [*betigada*].[L] **He said to** the sages: **Fill it up and go on your** way. **They filled and poured one by one,** i.e., they filled the utensil by pouring in water numerous times, **and** each time the utensil **swallowed** up the water. They continued to **fill** it **until their shoulders became disjointed.** In this manner, the sages of Athens **were defeated.**

מתני׳ חֲמוֹרָה שֶׁלֹּא בִיכְּרָה, וְיָלְדָה שְׁנֵי זְכָרִים – נוֹתֵן טָלֶה אֶחָד לַכֹּהֵן. זָכָר וּנְקֵבָה – מַפְרִישׁ טָלֶה אֶחָד לְעַצְמוֹ.

MISHNA In the case of **a female donkey that had not** previously **given birth**[H] **and** now **gave birth to two male** offspring, as there is no doubt that one of them is firstborn, its owner **gives one lamb to the priest** in redemption of that firstborn. If it gave birth to **a male and a female** and it is not known which was born first, **he designates one lamb** as firstborn in case the male was born first. Nevertheless, since it is merely a monetary debt to the priest, the burden of proof rests upon the claimant, in this case the priest. Due to that uncertainty, the priest can offer no proof and the owner keeps the lamb **for himself.**

LANGUAGE

Utensil [*tigada*] – תִּיגְדָּא: The correct version of the text, as preserved in some manuscripts and commentaries, is *tigara*, which apparently originates from the Middle Iranian word tigār, an earthen dish or bowl. The description of a receptacle that is never full regardless of how much water is poured inside it is well known in Greek literature.

HALAKHA

A female donkey that had not previously given birth, etc. – חֲמוֹרָה שֶׁלֹּא בִיכְּרָה וכו׳: If a donkey that had not previously given birth gives birth to two males, the owner gives one lamb to the priest. If it gave birth to a male and a female, he designates one lamb to remove the possible sanctity of the male donkey, as perhaps it was born first. This lamb that is designated belongs to the owner and not to the priest, as the burden of proof rests on the claimant, in accordance with the mishna (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:19; *Shulḥan Arukh*, *Yoreh De'a* 321:13).

NOTES

The House of the Swallowed – בֵּי בְלִיעֵי: This refers to a location in the ocean where the surrounding water is absorbed (Rashi). Rabbeinu Gershom Meor HaGola cites another explanation, that this refers to Miriam's well, which according to the Sages traveled with the Jewish people through the wilderness like a portable spring (see *Shabbat* 35a). *Tosafot* allude to a version of the text that appears in the *Ein Ya'akov* that this was a known location that had three statues: The first depicted a person placing his hand on his head, the second depicted him placing his hand on his heart, and in the third he points his hand backward. It was from a spring in this location that Rabbi Yehoshua drew water. *Ben Yehoyada* explains this as an allusion to a source of impurity that attempts to draw in the forces of life and good in three ways: Through influencing one's thoughts, heart, and actions.

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שְׁתֵּי חֲמוֹרָיו שֶׁלֹּא בִיכְּרוּ וְיָלְדוּ שְׁנֵי זְכָרִים – נוֹתֵן שְׁנֵי טְלָאִים לַכֹּהֵן. זָכָר וּנְקֵבָה, אוֹ שְׁנֵי זְכָרִים וּנְקֵבָה – נוֹתֵן טָלֶה אֶחָד לַכֹּהֵן. שְׁתֵּי נְקֵבוֹת וְזָכָר אוֹ שְׁנֵי זְכָרִים וּשְׁתֵּי נְקֵבוֹת – אֵין לַכֹּהֵן כְּלוּם.

If an individual has two donkeys, and both of **his two donkeys had not** previously **given birth**[H] **and they** now **gave birth to two males,** one each, the owner **gives two lambs to the priest.** If they together gave birth to **a male and a female or** to **two males and a female, he gives one lamb to the priest,**[N] as one of the males is certainly a firstborn. If they together gave birth to **two females and a male**[H] **or** to **two males and two females, the priest receives nothing,** as perhaps the two firstborn were females.

אַחַת בִּיכְּרָה וְאַחַת שֶׁלֹּא בִיכְּרָה, וְיָלְדָה שְׁנֵי זְכָרִים – נוֹתֵן טָלֶה אֶחָד לַכֹּהֵן. זָכָר וּנְקֵבָה – מַפְרִישׁ טָלֶה אֶחָד לְעַצְמוֹ.

If **one** of his donkeys **had** previously **given birth and one had not** previously **given birth**[H] **and** they now together **gave birth to two males,** the owner **gives one lamb to the priest** as redemption for the firstborn male. If they together gave birth to **a male and a female he designates one lamb for himself,** as it is uncertain whether or not the male was a firstborn and the burden of proof rests upon the claimant.

שֶׁנֶּאֱמַר: ״וּפֶטֶר חֲמוֹר תִּפְדֶּה בְשֶׂה״ – מִן הַכְּבָשִׂים וּמִן הָעִזִּים, זָכָר וּנְקֵבָה, גָּדוֹל וְקָטָן, תָּמִים וּבַעַל מוּם. פּוֹדֶה בּוֹ פְּעָמִים הַרְבֵּה, נִכְנָס לַדִּיר לְהִתְעַשֵּׁר, וְאִם מֵת – נֶהֱנִין בּוֹ.

From where is it derived that the firstborn of a donkey is redeemed with a lamb? It is derived from a verse, **as it is stated: "And you shall redeem the firstborn of a donkey with a lamb** [***seh***]" (Exodus 34:20). The owner may give a lamb either **from sheep**[H] **or from goats;** from **males or females,** from **older or younger** animals, and from **unblemished or blemished** animals. If the priest returns the lamb to the owner, he **may redeem** firstborn donkeys **with it many times.**[HN] In a case where he designates a lamb due to uncertainty and keeps it for himself, it is his in every sense. Consequently, **it enters the pen in order to be tithed** with the other non-sacred animals (see Leviticus 27:32), **and if it dies, one may derive benefit from its** carcass.

גמ׳ מַאן תַּנָּא? אָמַר רַבִּי יִרְמְיָה: דְּלָא כְּרַבִּי יוֹסֵי הַגְּלִילִי, דְּאִי רַבִּי יוֹסֵי הַגְּלִילִי – הָאָמַר: אֶפְשָׁר לְצַמְּצֵם!

GEMARA With regard to the first clause of the mishna the Gemara asks: **Who** is the *tanna* who **taught** that if a female donkey that had never given birth before gives birth to twin males, the owner gives only one lamb to the priest? **Rabbi Yirmeya says:** It is **not in accordance with** the opinion of **Rabbi Yosei HaGelili. As if** it were in accordance with the opinion of **Rabbi Yosei HaGelili, doesn't he say** in a later mishna (17a) with regard to a kosher animal that gave birth to two males and both their heads emerged as one, that **it is possible that** both births **coincided precisely,** and therefore both of the twins are given to the priest? According to his opinion, in the case here as well, two lambs should be given to the priest. The mishna clearly follows the opinion of the Rabbis that only one of the two is considered a firstborn.

HALAKHA

If his two donkeys had not previously given birth – שְׁתֵּי חֲמוֹרָיו שֶׁלֹּא בִיכְּרוּ: If two of the owner's donkeys had not previously given birth and then gave birth to two males, the owner gives two lambs to the priest. If they gave birth to one male and one female, he gives one lamb to the priest. If they gave birth to two males and a female, the *Shulḥan Arukh* rules that he gives one lamb to the priest and designates another lamb for himself, in accordance with opinion of Rashi and *Tosafot*. The Rambam holds he does not need to designate another lamb for himself (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:20; *Shulḥan Arukh*, *Yoreh De'a* 321:14).

Two females and a male, etc. – שְׁתֵּי נְקֵבוֹת וְזָכָר וכו׳: If one had two donkeys that had not previously given birth and they gave birth to two females and a male, or two males and two females, the priest receives nothing. The Rambam rules that the owner does not need to designate a lamb for himself, since multiple uncertainties exist with regard to whether there is a firstborn. Other authorities say he must designate a lamb for each male due to uncertainty, which he keeps (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:20; *Shulḥan Arukh*, *Yoreh De'a* 321:14, and in the comment of Rema).

If one had previously given birth and one had not previously given birth – אַחַת בִּיכְּרָה וְאַחַת שֶׁלֹּא בִיכְּרָה: If an individual owns two donkeys, one of which has given birth previously and one of which has not, and they together gave birth to two males which were subsequently intermingled, he gives one lamb to the priest. If the donkey that had not previously given birth gives birth to a male and a female, he designates one lamb for himself but does not give it to the priest, since it is uncertain whether he is obligated. The burden of responsibility rests on the claimant (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:21; *Shulḥan Arukh*, *Yoreh De'a* 321:15).

From sheep, etc. – מִן הַכְּבָשִׂים וכו׳: One who owns a female donkey that gave birth to a firstborn must redeem the firstborn with a sheep or a goat. The sheep or goat may be male or female, unblemished or blemished, or older or younger (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:10; *Shulḥan Arukh*, *Yoreh De'a* 321:1).

He may redeem firstborn donkeys with it many times – פּוֹדֶה בּוֹ פְּעָמִים הַרְבֵּה: An individual may use one lamb to redeem multiple firstborn donkeys, in accordance with the mishna. This can be done in a situation where he redeemed a firstborn donkey with a lamb, gave the lamb to the priest, and then reacquired it from the priest (Rashi). Likewise, if there is uncertainty whether a specific donkey has firstborn status, and the owner designates a lamb for it and keeps it, he may then redeem a certain firstborn donkey with it as well (*Tosafot* on 4b, citing Rabbeinu Tam). Alternatively, if uncertainty exists with regard to the firstborn status of ten donkeys, he may redeem them simultaneously with one lamb (*Shulḥan Arukh*, *Yoreh De'a* 321:5 in the comment of Rema, and *Shakh* there).

NOTES

If they gave birth…to two males and a female he gives one lamb to the priest – שְׁנֵי זְכָרִים וּנְקֵבָה נוֹתֵן טָלֶה אֶחָד לַכֹּהֵן: According to Rashi, since it is also possible that the second male is a firstborn, the owner designates an additional lamb for himself. Likewise, in the other cases in the mishna where there is uncertainty with regard to the male offspring, such as when there are two males and two females, the owner must designate an additional lamb for the male in order to remove its uncertain prohibited status. The mishna mentions each time only that a lamb must be given to the priest, but with regard to the additional lambs that are kept by the owner it relies on the fact that this was mentioned in the first case (Rid; Rosh). The Rambam holds that in some cases of uncertainty there is no need to separate a lamb at all (see *Ḥazon Ish*).

He may redeem firstborn donkeys with it many times – פּוֹדֶה בּוֹ פְּעָמִים הַרְבֵּה: Rashi explains that if the priest returns the lamb to the owner after having received it in exchange for the firstborn donkey, the owner may give it to the priest again in exchange for another donkey. The novelty of this ruling is that the sanctity of the firstborn donkey is not transferred to the lamb; rather, the lamb is simply considered the financial property of the priest (*Tosafot Ḥitzoniyyot* 4b). Rabbeinu Tam explains that this refers to a lamb that the owner designated in exchange for an animal of uncertain firstborn status, which, as explained, remains the property of the owner. Therefore, the mishna teaches that it is permitted to redeem a donkey with definite firstborn status with such a lamb, or to redeem even ten animals of uncertain status simultaneously (see *Tosafot* on 11a). This fits well with the continuation of the mishna that states: It enters the pen in order to be tithed with the other non-sacred animals, which according to a *baraita* cited on 11a also refers to a case where it is uncertain whether the donkey is actually a firstborn.

The Rambam's Commentary on the Mishna presents an alternate version of the text which reads: He may redeem with it, and many times it enters the pen to be tithed. The Rambam explains this in a similar manner to Rabbeinu Tam, i.e., that the owner will often separate a lamb for each donkey whose firstborn status is uncertain, and each of these lambs then enters the pen to be tithed with the other animals.

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אָמַר אַבַּיֵי: אֲפִילּוּ תֵּימָא רַבִּי יוֹסֵי הַגְּלִילִי, שָׁאנֵי הָתָם דִּכְתִיב: ״הַזְּכָרִים לַה׳״.

Abaye says: You may **even say** that the mishna is in accordance with the opinion of **Rabbi Yosei HaGelili,** and it **is different there** with regard to a kosher animal, **as it is written:** "Every firstborn that you have of animals, **the males shall be the Lord's"** (Exodus 13:12), i.e., the word "males" is written in the plural. This indicates that if they emerged simultaneously they both have firstborn status. By contrast, with regard to redeeming a firstborn donkey, only one has firstborn status.

וְלֵיגְמַר מִינַּיהּ! הָא מִיעֵט רַחֲמָנָא ״הַזְּכָרִים״.

The Gemara challenges: **But let him derive from** the *halakha* of a firstborn kosher animal that the *halakha* of a firstborn donkey is the same. The Gemara answers: **The Merciful One restricted** this principle to the case of a firstborn kosher animal, where it is written: "**The males** shall be the Lord's." The word "the" indicates that two males can be considered firstborn only in the case of a firstborn kosher animal.

אִיכָּא דְּאָמְרִי: לֵימָא דְּלָא כְּרַבִּי יוֹסֵי הַגְּלִילִי, דְּאִי רַבִּי יוֹסֵי הַגְּלִילִי – הָאָמַר: אֶפְשָׁר לְצַמְּצֵם! אָמַר אַבַּיֵי: אֲפִילּוּ תֵּימָא רַבִּי יוֹסֵי הַגְּלִילִי, שָׁאנֵי הָתָם דִּכְתִיב ״הַזְּכָרִים לַה׳״.

Some say there is another version of this discussion: **Let us say that** the mishna is **not in accordance with** the opinion of **Rabbi Yosei HaGelili, as if** it follows the opinion of **Rabbi Yosei HaGelili, doesn't he say it is possible that** both births **coincide precisely,** and if they were born simultaneously both are considered firstborn? **Abaye says: You** may **even say** it is in accordance with the opinion of **Rabbi Yosei HaGelili,** and it **is different there, as it is written: "The males shall be the Lord's."**

בְּשִׁלְמָא לְרַבִּי יִרְמְיָה, דְּלָא מוֹקֵי לָהּ כְּרַבִּי יוֹסֵי הַגְּלִילִי – הַיְינוּ דְּלָא קָתָנֵי: ״וְיָצְאוּ שְׁנֵי רָאשֵׁיהֶן כְּאֶחָד״. אֶלָּא לְאַבַּיֵי, לִיתְנֵי: ״וְיָצְאוּ שְׁנֵי רָאשֵׁיהֶן כְּאֶחָד״!

The Gemara asks: **Granted, according to Rabbi Yirmeya, who does not interpret** the mishna **in accordance with** the opinion of **Rabbi Yosei HaGelili, that is** the reason **that it does not teach: And both of their heads emerged as one,** as stated in the mishna where the ruling of Rabbi Yosei HaGelili is taught; according to the Rabbis who disagree with Rabbi Yosei HaGelili, this is impossible. **But according to Abaye,** who holds that the mishna is in accordance with the opinion of Rabbi Yosei HaGelili and such an occurrence is possible, **let** the mishna **teach: And both of their heads emerged as one,** indicating that in this case even Rabbi Yosei HaGelili agrees only one lamb is given to the priest.

וְעוֹד, תַּנְיָא: חֲמוֹרוֹ שֶׁלֹּא בִּיכְּרָה וְיָלְדָה שְׁנֵי זְכָרִים, וְיָצְאוּ שְׁנֵי רָאשֵׁיהֶן כְּאֶחָד, רַבִּי יוֹסֵי הַגְּלִילִי אוֹמֵר: שְׁנֵיהֶן לַכֹּהֵן, שֶׁנֶּאֱמַר: ״הַזְּכָרִים לַה׳״.

Furthermore, it is taught in a *baraita*: If one's **donkey had not** previously **given birth and** now **gave birth to two males, and both of their heads emerged as one, Rabbi Yosei HaGelili says: Both of them** are given **to the priest, as it is stated: "The males shall be the Lord's."**

וְהָא כִּי כְּתִיב הַאי – בְּקָדוּשַׁת הַגּוּף הוּא דִּכְתִיב! אֶלָּא מִשּׁוּם שֶׁנֶּאֱמַר: ״הַזְּכָרִים לַה׳״! תִּיוּבְתָּא דְּאַבַּיֵי, תִּיוּבְתָּא.

The Gemara clarifies: **But when this** verse **is written, isn't it written with regard to** a firstborn kosher animal, which has **inherent sanctity,** unlike a firstborn donkey? **Rather, because it is stated** with regard to a kosher animal: "**The males shall be the Lord's,**" this serves as the basis for the *halakha* with regard to the firstborn of a non-kosher animal that both males can be considered firstborn. If so, **the refutation of** the opinion of **Abaye** is in fact **a conclusive refutation,** and the mishna is in accordance with the opinion of the Rabbis, not that of Rabbi Yosei HaGelili.

Perek **I**
Daf **9** Amud **b**

וְרַבָּנַן, לֵימָא קָסָבְרִי רַבָּנַן מִקְצָת רֶחֶם מְקַדֵּישׁ? דְּאִי כּוּלֵּיהּ רֶחֶם מְקַדֵּישׁ, נְהִי דְּאִי אֶפְשָׁר לְצַמְּצֵם, חֲצִיצָה מִיהָא אִיכָּא!

The Gemara asks: **And** with regard to the opinion of **the Rabbis, let us say the Rabbis hold** that even **a portion of the** mouth of the **womb sanctifies** a firstborn despite the offspring never having touched the entire area. **As, if** only **the entire** mouth of the **womb sanctifies** the firstborn, then in a case where the heads emerged as one, **granted** that **it is impossible** for both births **to coincide precisely** and one certainly emerged first, but **in any event there is an interposition,** i.e., the head of the other fetus, between each fetus and the mouth of the womb.

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אָמַר רַב: מִין בְּמִינוֹ אֵינוֹ חוֹצֵץ.

The Gemara answers that **Rav says:** No proof may be drawn from here that a portion of the womb sanctifies a firstborn, as **a substance** that is in contact **with** the **same** type of **substance does not interpose.** Therefore, each fetus is still considered to be touching the entire womb.

״זָכָר וּנְקֵבָה – מַפְרִישׁ טָלֶה״ כו׳. וְכֵיוָן דְּלְעַצְמוֹ הוּא, לָמָּה לִי לְאַפְרוּשֵׁי? לְאַפְקוּעֵי לְאֵיסוּרֵיהּ מִינֵּיהּ.

§ The mishna teaches that if a female donkey that had not yet given birth gives birth to **a male and a female,** and there is uncertainty with regard to which was born first, the owner **designates a lamb** in case the male was born first, which he keeps for himself. The Gemara asks: **But since** he keeps **it for himself, why do I** need him **to designate** it? The Gemara answers: It is necessary **in order to abrogate its forbidden status.**

אַלְמָא, כֵּיוָן דְּלָא מַפְקַע – אָסוּר בַּהֲנָאָה; מַתְנִיתִין מַנִּי? רַבִּי יְהוּדָה הִיא, דְּתַנְיָא: פֶּטֶר חֲמוֹר אָסוּר בַּהֲנָאָה, וְרַבִּי שִׁמְעוֹן מַתִּיר.

The Gemara comments: **Apparently, since** prior to the designation the sanctity **is not** yet **abrogated, it is prohibited to** derive **benefit** from the donkey at that stage. If so, **whose** opinion is expressed in **the mishna? It is** the opinion of **Rabbi Yehuda, as it is taught** in a *baraita*: It **is prohibited to** derive **benefit** from **a firstborn donkey,**[H] in accordance with the opinion of Rabbi Yehuda; **and Rabbi Shimon deems** it **permitted.**

מַאי טַעֲמָא דְּרַבִּי יְהוּדָה? אָמַר עוּלָּא: יֵשׁ לְךָ דָּבָר שֶׁצָּרִיךְ פְּדָיָיה, וּמוּתָּר? וְלֹא? וַהֲרֵי בְּכוֹר אָדָם, שֶׁצָּרִיךְ פְּדָיָיה, וּמוּתָּר! אֶלָּא: יֵשׁ לְךָ דָּבָר שֶׁהִקְפִּידָה עָלָיו תּוֹרָה בְּשֶׂה, וּמוּתָּר?

The Gemara asks: **What is the reason** for the opinion **of Rabbi Yehuda? Ulla says: Do you have an item that requires redemption and** it is nevertheless **permitted** to derive benefit from it? The Gemara challenges: **And** is there **no** such item? **But doesn't** a woman's **firstborn son require redemption** with five shekels, **and** it is nevertheless **permitted** to derive benefit from him? **Rather,** this is what Ulla means: **Do you have an item about which the Torah was particular** and requires that it be redeemed specifically **with a lamb, and** yet it is still **permitted** prior to redemption?

וּמִי הִקְפִּידָה? וְהָא רַב נָחְמָיָה בְּרֵיהּ דְּרַב יוֹסֵף פָּרֵיק לֵיהּ בְּשִׁילְקֵי בְּשָׁוְויְיהוּ! בְּשָׁוְויְיהוּ לָא קָאָמַר; כִּי קָאָמְרִינַן – שֶׁלֹּא בְּשָׁוְויְיהוּ, וְהָכִי קָאָמַר: יֵשׁ לְךָ דָּבָר שֶׁהִקְפִּידָה עָלָיו תּוֹרָה לְאַפְקוּעֵי לְאֵיסוּרֵיהּ בְּשֶׂה?

The Gemara challenges: **And is** the Torah **particular** about redeeming a firstborn donkey specifically with a lamb? **But didn't Rav Neḥemya, son of Rav Yosef, redeem** a firstborn donkey **with boiled vegetables** that were worth **its** full **value?**[H] The Gemara answers: Ulla **is not saying,** i.e., referring to, a case where the donkey is redeemed **at its** full **value.** Rather, **when we say** the Torah is particular that the donkey be redeemed with a lamb, the reference is to redeeming it **not at its** full **value, and this** is what Ulla **is saying: Do you have an item about which the Torah was particular** so as **to** require **abrogating its forbidden status** specifically **with a lamb,** if the lamb is worth less than the donkey? Therefore, Rabbi Yehuda holds that deriving benefit from a firstborn donkey is forbidden.

וַהֲרֵי מַעֲשֵׂר, שֶׁהִקְפִּידָה עָלָיו תּוֹרָה בְּכֶסֶף צוֹרִי, וּתְנַן רַבִּי יְהוּדָה אוֹמֵר: בְּמֵזִיד קִידֵּשׁ!

The Gemara challenges: **But** this contradicts Rabbi Yehuda's ruling with regard to second-**tithe**[B] produce, concerning **which the Torah was particular about its** being redeemed only **with a minted coin, and we learned** in a mishna that **Rabbi Yehuda says:** If one betrothed a woman with second-tithe produce,[H] if he did so **intentionally, he has betrothed** her. Apparently, he maintains that deriving benefit from second-tithe produce is not prohibited prior to redemption.

HALAKHA

It is prohibited to derive benefit from a firstborn donkey – פֶּטֶר חֲמוֹר אָסוּר בַּהֲנָאָה: It is prohibited to derive benefit from a firstborn donkey until it is redeemed. If it is sold prior to redemption it is prohibited to derive benefit from the money received for it. This is in accordance with the opinion of Rabbi Yehuda (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:4; *Shulḥan Arukh*, *Yoreh De'a* 321:8).

Worth its full value – בְּשָׁוְויְיהוּ: If one does not have a lamb available with which to redeem a firstborn donkey he may redeem it with any item of the same value as the donkey and give the money to the priest. This is because the Torah did not intend to be stringent with a person by requiring him to use a lamb for redemption, but to be lenient with him, in that if the firstborn donkey was valued at ten *sela* coins he may redeem it with a lamb that is valued at one dinar (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:11; *Shulḥan Arukh*, *Yoreh De'a* 321:5).

If one betrothed a woman with second-tithe produce – קִידֵּשׁ אִשָּׁה בְּמַעֲשֵׂר שֵׁנִי: If a man betrothed a woman with second-tithe produce, whether the use of that produce for the betrothal was intentional or unintentional, she is not betrothed, as he may not use second-tithe produce until it has been desacralized. This ruling is in accordance with the opinion of Rabbi Meir, who disagrees with Rabbi Yehuda, cited in *Kiddushin* 52b (Rambam *Sefer Nashim*, *Hilkhot Ishut* 5:4).

BACKGROUND

Second tithe – מַעֲשֵׂר שֵׁנִי: This tithe is set aside after both the *teruma*, the portion of the produce given to the priest, and the first tithe, which is given to the Levites, have been separated. Second tithe was given during the first, second, fourth, and fifth years of the Sabbatical cycle. After second tithe was separated it was brought to Jerusalem and eaten there by its owner. If the journey to Jerusalem was long, rendering the transport of the produce there difficult, or if the produce became ritually impure, it could be redeemed for an equivalent sum of money. If the owner redeemed his own produce he was obligated to add one-fifth of its value to the price of redemption. He then took the money to Jerusalem, where it was spent on food to be eaten within the city walls.

Since second-tithe produce may not be eaten in impurity it is no longer brought to Jerusalem and eaten there today, as in the absence of the red heifer purification is impossible. Second-tithe produce is still redeemed, but only for a nominal sum. The *halakhot* of second-tithe produce are discussed in tractate *Ma'aser Sheni*.

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בְּפֶטֶר חֲמוֹר נַמִּי מִיקַּדְּשָׁא. כִּדְרַבִּי אֶלְעָזָר, דְּאָמַר רַבִּי אֶלְעָזָר: אִשָּׁה יוֹדַעַת שֶׁאֵין מַעֲשֵׂר שֵׁנִי מִתְחַלֵּל עַל יָדָהּ, וְעוֹלָה וְאוֹכְלָתוֹ בִּירוּשָׁלַיִם;

The Gemara answers: That is not proof, as according to Rabbi Yehuda, if a man betrothed a woman **with a firstborn donkey,**[H] **she is also betrothed. This applies** even if deriving benefit from the animal is prohibited, **in accordance with** the opinion **of Rabbi Elazar. As Rabbi Elazar says:** The reason **a woman** is betrothed with second-tithe produce is that she **knows that second-tithe** produce **is not desacralized by her** betrothal. Rather, it remains prohibited, **and she** will subsequently **ascend and consume it in Jerusalem,**[N] where consumption of second-tithe produce is permitted. She is therefore betrothed with the benefit of that future consumption.

הָכָא נַמִּי, אִשָּׁה יוֹדַעַת דְּפֶטֶר חֲמוֹר אֵיסּוּרָא אִית בֵּיהּ, וּפָרָקָא לֵיהּ בְּשֶׂה, וּמִקַּדְּשָׁא בְּהַדָּךְ דְּבֵינֵי וּבֵינֵי.

Here too, where one betroths a woman with a firstborn donkey, the betrothal is effective despite the fact that it is prohibited to derive benefit from the animal. This is because **a woman knows that a firstborn donkey has a forbidden status and she** will therefore **redeem it with a lamb. And she is betrothed with that** amount, i.e., **of** the difference **between** the value of the donkey **and** the value of the lamb, as the value of the lamb is lower.

וְרַבִּי שִׁמְעוֹן, מַאי טַעֲמָא? אָמַר עוּלָּא: יֵשׁ לְךָ דָּבָר שֶׁפִּדְיוֹנוֹ מוּתָּר וְהוּא אָסוּר?

The Gemara asks: **And** as for **Rabbi Shimon, what is the reason** he holds it is permitted to derive benefit from a firstborn donkey prior to its redemption? The Gemara answers that **Ulla says: Do you have an item whereby its redemption,** i.e., the item with which it is redeemed, **is permitted, but** the item itself **is forbidden?** Here too, since the lamb that is given to the priest is permitted, the donkey that it redeems should have been permitted as well prior to the redemption.

וְלֵיתֵי לְהָכִי שְׁבִיעִית דְּפִדְיוֹנָהּ מוּתָּר וְהִיא אֲסוּרָה!

The Gemara asks: **And** is there **not** such a case? **But isn't** there the case of selling produce from the **Sabbatical** Year?[B] **As its redemption,** i.e., the money received in exchange for the produce, **is permitted. But** deriving benefit from the produce itself **is prohibited** after that type of produce is unavailable in the fields, as at that time it must be removed from the house as well.

שְׁבִיעִית נַמִּי פִּדְיוֹנָהּ אָסוּר, דְּאָמַר מָר: הָאַחֲרוֹן אַחֲרוֹן אָסוּר.

The Gemara answers: With regard to the produce of **the Sabbatical** Year **as well, its redemption is forbidden, as the Master says:** If one purchased meat with produce of the Sabbatical Year, both the produce and the meat must be removed during the Sabbatical Year after the point when produce of that kind no longer remains in the field. If one purchased wine in exchange for the meat, the meat's consecrated status is negated and the wine assumes consecrated status. This process continues until **the very last** item purchased assumes the consecrated status of the produce of the Sabbatical Year, and the actual produce itself remains consecrated and **forbidden**[H] following the time of removal.

HALAKHA

If a man betrothed a woman with a firstborn donkey – קִידֵּשׁ אִשָּׁה בְּפֶטֶר חֲמוֹר: If a man betrothed a woman with an item from which deriving benefit is prohibited, such as leavened bread on Passover or a mixture of meat cooked with milk, she is not betrothed, even if the prohibition against deriving benefit from that item is only by rabbinic law (Rambam *Sefer Nashim*, *Hilkhot Ishut* 5:1).

The last item purchased assumes the status of the Sabbatical Year and the produce itself remains consecrated and forbidden – הָאַחֲרוֹן אַחֲרוֹן אָסוּר: If one purchases meat using Sabbatical Year produce the meat assumes the consecrated status of the produce. Therefore, he must eat it with the same restrictions as one eats produce with sanctity of the Sabbatical Year and remove it from his house at the proper time of removal of Sabbatical Year produce. The same *halakha* applies if one purchased meat using money that had been received in exchange for Sabbatical Year produce. If he then purchased fish with the meat or the money, the meat loses its consecrated status and the fish assumes the consecrated status of produce of the Sabbatical Year. He must therefore perform removal on the fish as well as on the original produce (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 6:7).

NOTES

And she will ascend and consume it in Jerusalem – וְעוֹלָה וְאוֹכֶלְתּוֹ בִּירוּשָׁלַיִם: Although the woman is currently outside of Jerusalem, the betrothal takes effect immediately based on the future benefit she will derive from the produce when she ascends to Jerusalem (*Tosafot*). Likewise, a woman can be betrothed with an unredeemed firstborn donkey despite its current forbidden status, since she is permitted to derive benefit from it following its redemption. Nevertheless, since her only benefit stems from the donkey's monetary value, if the firstborn donkey's value is less than that of the lamb to be purchased for its redemption she is not betrothed, as she will not have money remaining by which the betrothal can take effect (Rashba on *Kiddushin* 57b). From one of the explanations of Rashi on *Kiddushin* 53b it appears that when a woman is betrothed with second-tithe produce the betrothal does not take effect immediately, but only after she ascends to Jerusalem. According to that opinion, with regard to a firstborn donkey as well, the betrothal would not take effect until it is redeemed with a lamb.

BACKGROUND

Sabbatical Year – שְׁבִיעִית: The Sabbatical Year is the seventh year of the Sabbatical cycle. The first cycle began following the conquest of Canaan by Joshua. It is also known as *shemitta*, whose literal translation is abandonment or release. The *halakhot* of the Sabbatical Year are based on Torah law (see Leviticus 25:1–7 and Deuteronomy 15:1–6), but most authorities maintain that the requisite conditions for observance of the Sabbatical Year by Torah law have lapsed, and its present-day observance is by rabbinic law.

The particular regulations that apply to the discussion in the Gemara here are based on the *halakha* that all produce that grows during the Sabbatical Year is ownerless and must be left unguarded in the fields so that any creature, including wild animals and birds, can gain access to it. As long as produce remains available in the fields, other produce of its type may be eaten, though it possesses a consecrated status that limits its usage. It may not be bought and sold in the normal manner or used for purposes other than food. After the last remnants of a crop have been removed from the field, the crop may no longer be eaten unless a removal ceremony is performed promptly.

An additional *halakha* relevant to food consumption during the Sabbatical Year is that it is prohibited by rabbinic decree to eat produce that grew from seeds during the Sabbatical Year, even if it grew uncultivated. According to some authorities, this prohibition is by Torah law.

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וְאִיבָּעֵית אֵימָא: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן בְּהַאי קְרָא קָמִיפַּלְגִי, דְּתַנְיָא: ״לֹא תַעֲבֹד בִּבְכֹר שׁוֹרֶךָ״ – אֲבָל אַתָּה עוֹבֵד בְּשֶׁלְּךָ וּבְשֶׁל אֲחֵרִים, ״וְלֹא תָגֹז בְּכוֹר צֹאנֶךָ״ – אֲבָל אַתָּה גּוֹזֵז שֶׁלְּךָ וְשֶׁל אֲחֵרִים, דִּבְרֵי רַבִּי יְהוּדָה.

The Gemara offers an additional basis for the dispute between Rabbi Yehuda and Rabbi Shimon: **And if you wish, say** that **Rabbi Yehuda and Rabbi Shimon disagree with regard to** the following **verse, as it is taught** in a *baraita* with regard to the prohibition against shearing and working a firstborn kosher animal that the Torah states: "**You shall do no work with the firstborn of your ox**" (Deuteronomy 15:19), **but you may perform labor with** a firstborn animal that is both **your own and** also **that of others,**[N] i.e., an animal owned in partnership with a gentile. Although firstborn status applies to the Jew's share in the animal and he must give the value of his share to a priest, nevertheless, it has no sanctity and deriving benefit from it is permitted. The verse continues: "**Nor shear the firstborn of your flock,**" **but you may shear** a firstborn animal that is **yours and** that is also **that of others.** This is **the statement of Rabbi Yehuda.**

רַבִּי שִׁמְעוֹן אוֹמֵר: ״לֹא תַעֲבֹד בִּבְכוֹר שׁוֹרֶךָ״ – אֲבָל אַתָּה עוֹבֵד בִּבְכוֹר אָדָם, ״לֹא תָגֹז בְּכוֹר צֹאנֶךָ״ – אֲבָל אַתָּה גּוֹזֵז בִּבְכוֹר חֲמוֹר.

Rabbi Shimon says the verse should be interpreted as follows: "**You shall do no work with the firstborn of your ox,**" **but you may do work with** a woman's **firstborn son,** as no prohibition exists with regard to deriving benefit from the labor of a firstborn boy even before he is redeemed. "**Nor shear the firstborn of your flock,**" **but you may shear a firstborn donkey,** as deriving benefit from it is permitted. Rabbi Yehuda, who does not interpret the verse in this manner, holds that it is prohibited to shear and derive benefit from a firstborn donkey as well.

בִּשְׁלָמָא לְרַבִּי שִׁמְעוֹן – הַיְינוּ דִּכְתִיב תְּרֵי קְרָאֵי, אֶלָּא לְרַבִּי יְהוּדָה, תְּרֵי קְרָאֵי לְמַעוּטֵי שֶׁלְּךָ וְשֶׁל אֲחֵרִים לָמָּה לִי? וְתוּ, לְרַבִּי יְהוּדָה, בְּכוֹר אָדָם נַמִּי מֵימָא דַּאֲסִיר!

The Gemara asks: **Granted, according to** the opinion **of Rabbi Shimon, that is** the reason **that two verses,** i.e., phrases, **are written,** one that excludes a woman's firstborn son from the prohibition against deriving benefit and another that excludes a firstborn donkey. **But according to Rabbi Yehuda, why do I** need **two verses to exclude** a firstborn animal that is **yours and** that is also **that of others,** i.e., owned jointly by a Jew and a gentile, from the prohibition against deriving benefit from the firstborn? **And furthermore, according to Rabbi Yehuda, shall we say** that deriving benefit from a woman's **firstborn son** should **also be forbidden,** since it was not excluded by any verse?

אֶלָּא, דִּכוּלֵי עָלְמָא ״שׁוֹרֶךָ״ – לְמַעוּטֵי בְּכוֹר אָדָם הוּא דְּאָתָא. כִּי פְּלִיגִי בְּ״צֹאנֶךָ״; דְּרַבִּי יְהוּדָה לְטַעְמֵיהּ, דְּאָמַר: שׁוּתָּפוּת גּוֹי חַייֶבֶת בִּבְכוֹרָה, וְכִי אִיצְטְרִיךְ קְרָא – לְמִישְׁרֵי בְּגִזָּה וַעֲבוֹדָה.

Rather, everyone agrees that the term "**your ox**" **comes to exclude** a woman's **firstborn son,** from whom it is permitted to derive benefit. **When they disagree,** it is **with regard to** the term "**your flock.**" **As Rabbi Yehuda** conforms **to his** line of **reasoning, as he says** that an animal that is owned in **partnership** with **a gentile is obligated in a firstborn,** i.e., subject to the requirement that its owner count its offspring as a firstborn, **and** therefore **the verse was necessary to permit shearing and** using the animal for **labor.**

וְרַבִּי שִׁמְעוֹן סָבַר: שׁוּתָּפוּת גּוֹי פְּטוּרָה מִן הַבְּכוֹרָה, וּלְעִנְיַן גִּזָּה וַעֲבוֹדָה לָא אִיצְטְרִיךְ קְרָא, כִּי אִיצְטְרִיךְ קְרָא – לְפָטֵר חֲמוֹר.

And Rabbi Shimon holds that an animal owned in **partnership** with **a gentile** is **exempt from** its offspring being counted **a firstborn, and** therefore **with regard to shearing and labor, no verse was necessary.** Rather, **the verse was necessary to** exclude the case of **a firstborn donkey** from the prohibition against shearing and working the firstborn animal.

NOTES

But you may perform labor with a firstborn animal that is your own and that of others – אֲבָל אַתָּה עוֹבֵד בְּשֶׁלְּךָ וּבְשֶׁל אֲחֵרִים: Although according to Rabbi Yehuda partnership with a gentile does not exempt the offspring from firstborn status, nevertheless the firstborn animal possesses sanctity that inheres in its value alone, as the priest owns that half of the animal. Inherent sanctity, which is the source of the prohibition against shearing and working the firstborn animal, does not take effect on the offspring. This point, that the sanctity cannot take partial effect, is the primary novelty of the verse here (Rashi, as explained by Rashash). Some hold that it is also prohibited to derive benefit from the firstborn until it develops a blemish (*Shita Mekubbetzet* on *Temura* 11b). According to that opinion, the firstborn does have inherent sanctity, but the verse here teaches that the Torah decreed that the prohibition against shearing and working does not take effect.

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בְּשִׁלְמָא לְרַבִּי יְהוּדָה – הַיְינוּ דִּכְתִיב ״צֹאנֶךָ״, וְ״שׁוֹרֶךָ״ – אַטּוּ ״צֹאנֶךָ״. אֶלָּא לְרַבִּי שִׁמְעוֹן, ״שׁוֹרֶךָ״ וְ״צֹאנֶךָ״ לָמָּה לִי? קַשְׁיָא.

The Gemara asks: **Granted, according to** the opinion of **Rabbi Yehuda, this is** the reason **that** the term **"your flock" is written,** and not simply the word flock. It excludes sheep that are owned in partnership with a gentile. **And** with regard to the term **"your ox,"** the word ox alone is sufficient to exclude a woman's firstborn son from the prohibition; and the verse employed the term "your ox" **because of** the term **"your flock,"** so that the two would be stylistically similar. **But according to** the opinion of **Rabbi Shimon,** who derives from the term "your flock" that a firstborn donkey is not included, writing the terms flock and donkey alone would suffice. **Why do I** need the terms **"your ox" and "your flock"?** The Gemara concludes: This is **difficult.**

אָמַר רַבָּה: וּמוֹדֶה רַבִּי שִׁמְעוֹן לְאַחַר עֲרִיפָה שֶׁהוּא אָסוּר;

§ **Rabba says: And Rabbi Shimon concedes that** even if it is permitted to derive benefit from a firstborn donkey that was not redeemed, **following** the **breaking** of its **neck**[H] in fulfillment of the verse: "And you shall redeem every firstborn donkey with a lamb, and if you do not redeem it, then you shall break its neck" (Exodus 13:13), **it is forbidden** to derive benefit from its carcass.

מַאי טַעְמָא – גָּמַר עֲרִיפָה עֲרִיפָה מֵעֶגְלָה עֲרוּפָה.

What is the reason for this ruling? **He derives** this *halakha* by a verbal analogy **between** the expression: **"Breaking the neck,"** stated here, and the expression: **"Breaking the neck,"** stated in the case of **the heifer whose neck is broken** by the Elders of the city due to a unresolved murder (see Deuteronomy 21:1–9). Just as it is forbidden to derive benefit from the heifer after its neck is broken, so too is it prohibited to derive benefit from a firstborn donkey that was not redeemed following the breaking of its neck.

אָמַר רָבָא: מְנָא אָמִינָא לֵיהּ? דְּתַנְיָא: הָעָרְלָה, וְכִלְאֵי הַכֶּרֶם, וְשׁוֹר הַנִּסְקָל, וְעֶגְלָה עֲרוּפָה, וְצִיפּוֹרֵי מְצוֹרָע, וּפֶטֶר חֲמוֹר, וּבָשָׂר בְּחָלָב – כּוּלָּן מִטַּמְּאִין טוּמְאַת אוֹכָלִין.

Rava said: From where do I say that this is the opinion of Rabbi Shimon? **As it is taught** in a *baraita* (*Tosefta*, *Okatzin* 3:12): **The fruit of a tree during the first three years after its planting** [***orla***], **and diverse kinds in a vineyard,**[BH] **and** the flesh of **an ox that** was to be **stoned** for killing or copulating with a person but was slaughtered instead, **and** that of **a heifer whose neck** was to be **broken** but was slaughtered instead, **and** of **the birds** offered by **a leper** (see Leviticus 14:4–7), **and** of **a firstborn donkey** whose neck was broken, **and meat** cooked together **with milk, are all susceptible to the ritual impurity of food,** despite the fact that their consumption is forbidden.

רַבִּי שִׁמְעוֹן אוֹמֵר: כּוּלָּן אֵין מִטַּמְּאִין טוּמְאַת אוֹכָלִין. וּמוֹדֶה רַבִּי שִׁמְעוֹן בְּבָשָׂר בְּחָלָב שֶׁמִּטַּמֵּא טוּמְאַת אוֹכָלִין, הוֹאִיל וְהָיְתָה לוֹ שְׁעַת הַכּוֹשֶׁר.

Rabbi Shimon says: All of them are not susceptible to the ritual impurity of food, since they are all items from which deriving benefit is prohibited and are therefore not considered food. **And Rabbi Shimon concedes with regard to meat** cooked together **with milk that it is susceptible to the impurity of food, since** both the meat and the milk **had a period of susceptibility** to contracting impurity before they were cooked together.

וְאָמַר רַבִּי אַסִּי אָמַר רַבִּי יוֹחָנָן: מַאי טַעְמָא דְּרַבִּי שִׁמְעוֹן? דִּכְתִיב: ״מִכֹּל הָאֹכֶל אֲשֶׁר יֵאָכֵל״ – אוֹכֶל שֶׁאַתָּה יָכוֹל לְהַאֲכִילוֹ לַאֲחֵרִים – קָרוּי אוֹכֶל, שֶׁאִי אַתָּה יָכוֹל לְהַאֲכִילוֹ לַאֲחֵרִים – אֵינוֹ קָרוּי אוֹכֶל.

And Rabbi Asi says that **Rabbi Yoḥanan says: What is the reason** for the opinion **of Rabbi Shimon** that an item from which deriving benefit is prohibited is not susceptible to the impurity of food? It is **as it is written: "All food therein that may be eaten** [***ha'okhel asher ye'akhel***], that on which water comes, shall be impure" (Leviticus 11:34). The use of the Hebrew root *alef, khaf, lamed* twice in this phrase indicates that specifically **food that you are able to feed to others,** i.e., gentiles, **is called food** with regard to susceptibility to the impurity of food. But food **that you are not able to feed to others is not called food.** Therefore, an item from which deriving benefit is prohibited and which one is consequently forbidden to feed to gentiles is not considered food in this context.

BACKGROUND

Diverse kinds in a vineyard – כִּלְאֵי הַכֶּרֶם: The *halakhot* of diverse kinds in a vineyard are stated briefly in the Torah: "You shall not sow your vineyard with diverse kinds of seed, lest fullness of the seed that you have sown be forfeited, together with the increase of the vineyard" (Deuteronomy 22:9). The Sages explain that if one plants food crops in a vineyard, it is prohibited to consume or benefit from all of the produce, and it must be burned. The details of these *halakhot* are discussed at length in tractate *Kilayim*.

HALAKHA

A firstborn donkey following the breaking of its neck – פֶּטֶר חֲמוֹר לְאַחַר עֲרִיפָה: A firstborn donkey whose neck is broken must be buried, as it is prohibited to derive benefit from it (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:4; *Shulḥan Arukh*, *Yoreh De'a* 321:8).

***Orla* and diverse kinds in a vineyard, etc. – הָעָרְלָה וְכִלְאֵי הַכֶּרֶם וכו':** With regard to *orla*, diverse kinds in a vineyard, the flesh of an ox that was to be stoned but was slaughtered, the flesh of a heifer whose neck was to be broken but was slaughtered, the flesh of birds offered by a leper, the flesh of a firstborn donkey or of the red heifer, a mixture of meat cooked together with milk, *piggul*, and *notar*, all become susceptible to ritual impurity of food, in accordance with the opinion of the Rabbis cited in the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 1:25 and *Kesef Mishne* there).

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אִי הָכִי, בָּשָׂר בְּחָלָב מַאי אִירְיָא דְּהָיְתָה לָהּ שְׁעַת הַכּוֹשֶׁר? תֵּיפּוֹק לִי דְּאוֹכֶל שֶׁאַתָּה יָכוֹל לְהַאֲכִילוֹ לַאֲחֵרִים הוּא.

The Gemara asks: **If so,** if this is indeed Rabbi Shimon's opinion, **why,** then, does he **specifically** state that **meat** cooked **in milk** is susceptible to impurity **because it had a period of susceptibility** to contracting impurity before they were cooked together? **Derive** this *halakha* from the fact **that it is food that you can feed to others,** as Rabbi Shimon maintains that deriving benefit from meat and milk cooked together is not prohibited.

דְּתַנְיָא, רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה אוֹמֵר מִשּׁוּם רַבִּי שִׁמְעוֹן: בָּשָׂר בְּחָלָב – אָסוּר בַּאֲכִילָה וּמוּתָּר בַּהֲנָאָה, שֶׁנֶּאֱמַר: ״כִּי עַם קָדוֹשׁ אַתָּה לַה׳ אֱלֹהֶיךָ״, וּלְהַלָּן הוּא אוֹמֵר: ״וְאַנְשֵׁי קֹדֶשׁ תִּהְיוּן לִי״, מַה לְּהַלָּן אָסוּר בַּאֲכִילָה וּמוּתָּר בַּהֲנָאָה, אַף כָּאן – אָסוּר בַּאֲכִילָה וּמוּתָּר בַּהֲנָאָה!

As it is taught in a *baraita*: **Rabbi Shimon ben Yehuda says in the name of Rabbi Shimon:** With regard to **meat** cooked **in milk, eating** it **is forbidden and** deriving **benefit** from it is permitted, **as it is stated: "For you are a holy people to the Lord your God; you shall not cook a kid in its mother's milk"** (Deuteronomy 14:21). **And elsewhere** the verse **states: "And you shall be holy men to Me; therefore you shall not eat any flesh that is torn by animals in the field"** (Exodus 22:30). **Just as there,** with regard to an animal torn by animals, which is forbidden as a *tereifa*, i.e., an animal possessing a wound that will cause it to die within twelve months, **eating** it **is forbidden but** deriving **benefit** from it is permitted, **so too here,** with regard to meat cooked in milk, where the verse mentions being holy just as the other verse did, **eating** it **is forbidden but** deriving **benefit** from it is permitted.

חָדָא וְעוֹד קָאָמַר: חָדָא – דְּאוֹכֶל שֶׁאַתָּה יָכוֹל לְהַאֲכִילוֹ לַאֲחֵרִים הוּא. וְעוֹד – לְדִידֵיהּ נָמֵי הֲרֵי הָיְתָה לוֹ שְׁעַת הַכּוֹשֶׁר.

The Gemara answers: The *baraita* that cites Rabbi Shimon's opinion **states one** reason why meat cooked in milk is susceptible to impurity **and** adds **another. One** reason is **because** it **is food that you can feed to others.** Therefore, it is called food for the purpose of being susceptible to impurity. **And another** reason is because **even for him,** i.e., a Jew, although eating the milk and meat is currently prohibited, **it had a time** when it was **fit** for consumption,[N] i.e., before they were cooked together, and therefore they remain susceptible to impurity.

וְאִם אִיתָּא דִּלְאַחַר עֲרִיפָה שָׁרֵי רַבִּי שִׁמְעוֹן, לֵיתְנֵי: וּמוֹדֶה רַבִּי שִׁמְעוֹן בְּפֶטֶר חֲמוֹר וּבָשָׂר בְּחָלָב שֶׁמְּטַמְּאִין טוּמְאַת אוֹכָלִין!

The opinion of Rabbi Shimon that all items from which deriving benefit is prohibited are not susceptible to the impurity of food except for meat cooked in milk has been elucidated. Rava now proceeds to explain his proof that even according to Rabbi Shimon, deriving benefit from a firstborn donkey after the breaking of its neck is forbidden: **And if it is so, that after breaking the neck** of the firstborn donkey **Rabbi Shimon deems it permitted** for one to derive benefit from it, **let** the *tanna* **teach: And Rabbi Shimon concedes with regard to a firstborn donkey and meat** cooked **in milk, that they are susceptible to the impurity of food.** Since a firstborn donkey is not listed as an exception, Rabbi Shimon must hold that it is prohibited to derive benefit from it after its neck is broken, and it is therefore not susceptible to impurity.

אִי דְּחָשֵׁיב עֲלֵיהּ – הָכִי נָמֵי, הָכָא בְּמַאי עָסְקִינַן – דְּלָא חָשֵׁיב עֲלֵיהּ.

The Gemara responds: **If** it is a case **where** the one who broke the neck of the donkey **intended** at the time that people would eat from **it, so too** it would be susceptible to the impurity of food according to Rabbi Shimon, as it is permitted to derive benefit from it. **Here we are dealing with** a case **where he did not intend** for **it** to be eaten, as even gentiles do not usually consume the meat of a donkey, and it therefore is not considered food.

NOTES

Even for him it had a time when it was fit for consumption – לְדִידֵיהּ נָמֵי הֲרֵי הָיְתָה לוֹ שְׁעַת הַכּוֹשֶׁר: By contrast, the other cases mentioned, such as the ox that was stoned, never had a time of suitability, since while still alive they were neither permitted to be eaten nor susceptible to ritual impurity (see Rashi). With regard to diverse kinds in a vineyard, despite the fact that they could have been fit for consumption before they were prohibited, they still could not be susceptible to impurity, as the prohibition takes effect while they are attached to the ground and items attached to the ground are not susceptible to impurity.

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וְטַעֲמָא מַאי מִטַּמְּאֵי רַבָּנַן? אֲמַרוּהָ רַבָּנַן קַמֵּיהּ דְּרַב שֵׁשֶׁת: הוֹאִיל וְאִיסּוּרוֹ חִישּׁוּבוֹ.

The Gemara asks: **But** if he did not intend for anyone to eat it, **what is the reason the Rabbis deem** the flesh **susceptible to** the **impurity** of food? **The Sages said before Rav Sheshet:** It is susceptible to the impurity of food **because the prohibition** to eat it serves as **intent**[N] to treat **it** as food, i.e., the very fact that it is forbidden renders it significant enough to be deemed a food.

וּלְרַבָּנַן, מִי אָמַר הוֹאִיל וְאִיסּוּרוֹ חִישּׁוּבוֹ? וְהָא תְּנַן: שִׁלְּשָׁה עָשָׂר דְּבָרִים אָמְרוּ בִּנְבֵלַת עוֹף טָהוֹר, וְזוֹ אַחַת מֵהֶן – צְרִיכָה מַחֲשָׁבָה וְאֵינָהּ צְרִיכָה הֶכְשֵׁר.

The Gemara asks: **But according to the Rabbis, did** they actually **say** that an item is susceptible to the impurity of food **since its prohibition** serves as **its intent? But didn't we learn** in a mishna (*Teharot* 1:1) that the Sages **stated thirteen matters concerning the unslaughtered carcass of a kosher bird, and this is one of them: It requires** explicit **intent** that it will be eaten in order to become susceptible to the impurity of food, as most gentiles are unaccustomed to eating it, **but it does not require** contact with liquid to be **rendered** susceptible to ritual impurity.

וְאִי אִיסּוּרוֹ חִישּׁוּבוֹ, לָמָּה לִי מַחֲשָׁבָה? הָא מַנִּי – רַבִּי שִׁמְעוֹן הִיא.

And if the logic of: **Its prohibition** serves as **its intent,** is accepted, **why do I** need the **intent** here, as an unslaughtered carcass is forbidden to be eaten? The Gemara answers: In accordance with **whose** opinion **is this? It is** in accordance with the opinion of **Rabbi Shimon,** who does not hold that its prohibition serves as its intent.

תָּא שְׁמַע: נְבֵלַת בְּהֵמָה טְמֵאָה בְּכָל מָקוֹם, וְנִבְלַת עוֹף טָהוֹר וְהַחֵלֶב בַּכְּפָרִים – צְרִיכִים מַחֲשָׁבָה וְאֵינָם צְרִיכִים הֶכְשֵׁר. וְאִי אָמְרַתְּ אִיסּוּרוֹ חִישּׁוּבוֹ, לָמָּה לִי מַחֲשָׁבָה? הָא מַנִּי – רַבִּי שִׁמְעוֹן הִיא.

The Gemara suggests: **Come** and **hear** a proof from another mishna (*Okatzin* 3:3): **A carcass of a non-kosher animal,** such as a horse or donkey, found **in any location; or an unslaughtered carcass of a kosher bird**[NH] **or the fat** of a kosher animal found **in the villages,**[N] where the local gentiles are unaccustomed to eating it, all **require intent** to consume it in order to become susceptible to the impurity of food, **but they do not require** being **rendered** susceptible[B] to impurity by coming in contact with liquid. **And if you say its prohibition** serves as **its intent, why do I** need **intent?** All these foods are forbidden for consumption by a Jew. The Gemara responds: In accordance with **whose** opinion **is this? It is** in accordance with the opinion of **Rabbi Shimon.**

HALAKHA

A carcass of a non-kosher animal…or an unslaughtered carcass of a kosher bird – נְבֵלַת בְּהֵמָה טְמֵאָה... וְנִבְלַת עוֹף טָהוֹר: The unslaughtered carcass of a kosher bird found in the villages and the carcass of a non-kosher animal found anywhere require intent in order to be classified as human food, but do not require contact with liquid in order to become susceptible to the impurity of food. This is the *halakha* where the piece of meat under discussion was less than the volume of an olive-bulk, but if it was at least the volume of an olive-bulk it is considered a primary source of impurity, in accordance with the ruling of the mishna (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 3:3).

NOTES

Because the prohibition serves as intent – הוֹאִיל וְאִיסּוּרוֹ חִישּׁוּבוֹ: Rabbeinu Gershom Meor HaGola explains that the very fact that a donkey is forbidden for consumption by a Jew renders it susceptible to impurity of food, irrespective of the standard conditions of how food becomes susceptible to ritual impurity. Rashi explains that there would be no reason for the Torah to prohibit eating the meat of a donkey if people did not consider it edible, and the prohibition merely indicates that the meat of a donkey is in fact considered a food.

An unslaughtered carcass of a kosher bird – נִבְלַת עוֹף טָהוֹר: Rashi explains that in the villages most people are destitute and are unaccustomed to eating poultry. By contrast, city residents are somewhat wealthier, and are therefore more accustomed to eating poultry. *Tosafot* cite an interpretation to the contrary, cited elsewhere by Rashi (see *Ḥullin* 128a), that in the villages it is uncommon to eat poultry since animal meat is readily available, while in the cities it is more common for people to eat poultry.

Or the fat of a kosher animal found in the villages – וְהַחֵלֶב בַּכְּפָרִים: Rashi explains that this refers to the fat of an unslaughtered carcass of a kosher animal, which is eaten only in the cities but not in the villages. By contrast, the fat of a non-kosher animal is not eaten even in the cities, and requires intent in all locations to render it susceptible to the impurity of food. Despite Rashi's explanation here of the mishna's use of the word: Fat, he later retracts this interpretation and suggests this word be deleted from the text of the mishna. In fact, the word is not found in the standard text of the mishna in tractate *Okatzin* (see *Tosafot*). His reason for deleting it is that although with regard to the eating habits of villagers the fat of a kosher animal is considered like a bird, which is not eaten and therefore requires intent to be rendered a food, nevertheless, the fat certainly should require contact with liquid to become susceptible to impurity.

BACKGROUND

Being rendered susceptible – הֶכְשֵׁר: A food cannot become susceptible to ritual impurity unless it was first moistened with water (see Leviticus 11:38). Since all food that grows in the ground normally has contact with rain at some point, the Sages understood that in order for food to be rendered ritually impure due to contact with water, the moistening must have occurred after the produce had been detached from the ground. This *halakha* applies if the food comes into contact with any one of the seven designated liquids: Water, dew, wine, honey, oil, blood, and milk, which are considered like water in this respect. In addition, the owner of the food must approve of its being moistened. The numerous *halakhot* that determine this latter condition, specifically what is defined as the owner's approval, are discussed primarily in tractate *Makhshirin*.

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תָּא שְׁמַע: נִבְלַת בְּהֵמָה טְהוֹרָה בְּכָל מָקוֹם, וְנִבְלַת עוֹף הַטָּהוֹר, וְהַחֵלֶב בַּשְּׁווּקִים – אֵינָן צְרִיכִין מַחֲשָׁבָה וְלֹא הֶכְשֵׁר. הָא טְמֵאָה – בָּעֵיָא מַחֲשָׁבָה!

The Gemara suggests: **Come** and **hear** a proof from the continuation of the same mishna: **An unslaughtered carcass of a kosher animal** found **in any location, or the unslaughtered carcass of a kosher bird** found in any location, **or the fat** of a kosher animal found **in the marketplaces,**[NH] i.e., in a large city that has marketplaces, where some people do eat it, **do not require intent** for consumption in order to be regarded as subject to impurity, as they are presumed to be food for gentiles; **nor** do they require contact with liquid in order for them to be **rendered** susceptible to impurity. The Gemara infers that only the carcass of a kosher animal does not require intent, **but** the carcass of **a non-kosher** animal **requires intent.** If its prohibition serves as its intent, why does it require intent for consumption?

וְכִי תֵּימָא: הָא מַנִּי רַבִּי שִׁמְעוֹן הִיא, הָא מִדְּסֵיפָא רַבִּי שִׁמְעוֹן הָוֵי – רֵישָׁא לָאו רַבִּי שִׁמְעוֹן. דְּקָתָנֵי סֵיפָא, רַבִּי שִׁמְעוֹן אוֹמֵר: אַף הַגָּמָל וְהָאַרְנֶבֶת וְהַשָּׁפָן וְהַחֲזִיר אֵינָן צְרִיכִין לֹא מַחֲשָׁבָה וְלֹא הֶכְשֵׁר, וְאָמַר רַבִּי שִׁמְעוֹן: מַה טַּעַם – הוֹאִיל וְיֵשׁ בָּהֶן סִימָנֵי טְהָרָה!

And if you would say: In accordance with **whose** opinion **is this, it is** also in accordance with the opinion of **Rabbi Shimon;** one could respond that **since the latter clause is** the opinion of **Rabbi Shimon** it follows that **the former clause,** which is written without attribution, **is not** in accordance with the opinion of **Rabbi Shimon. As the latter clause teaches: Rabbi Shimon says even** the meat of **the camel, and the hare, and the rock badger, and the pig do not require intent or** contact with liquid to be **rendered** susceptible to impurity. **And Rabbi Shimon said: What** is the **reason?** The reason is **that they have** some **characteristics of kosher** animals (see Leviticus 11:4–7).[N] If so, the dispute between Rabbi Shimon and the Rabbis cannot be based on whether the prohibition of the animal serves as its intent.

אֶלָּא אָמַר רָבָא: דְּכוּלֵי עָלְמָא לָא אָמְרִינַן אִיפּוּרוֹ חִישּׁוּבוֹ. וְאִי דְּעַרְפֵיהּ מִיעֲרָף – הָכִי נַמִּי,

Rather, Rava says: Everyone, including the Rabbis, agrees that **we do not say its prohibition** serves as **its intent. And** with regard to a firstborn donkey, **if** one **broke its neck, so too,**[N] the Rabbis hold that it is not susceptible to the impurity of food, since the one who broke its neck did not intend for it to be eaten.

NOTES

Or the fat of a kosher animal found in the marketplaces – וְהַחֵלֶב בַּשְּׁווּקִים: According to Rashi this refers to the fat of a kosher animal that was properly slaughtered. It does not require intent to render it susceptible to the impurity of food because it is normally eaten in the cities. Moreover, it does not require contact with liquid to become susceptible to impurity, since any item that is normally eaten is rendered susceptible to impurity through slaughtering.

According to the Rambam, this refers to the fat of the carcass of a non-kosher animal. The reason it does not require contact with liquid to become susceptible to impurity is that unlike the fat of a kosher animal, it transmits impurity in the same manner as the flesh of an animal.

That they have some characteristics of kosher animals – הוֹאִיל וְיֵשׁ בָּהֶן סִימָנֵי טְהָרָה: It is apparent from this passage that the definition of food with regard to these animals as it pertains to ritual impurity depends not only on the eating habits of the population but also on the degree of similarity to kosher animals. This explanation is not found in the text of the mishna in tractate *Okatzin*, and instead appears to be a citation of a *baraita* (see 10b). In fact, the Rambam's Commentary on the Mishna explains that Rabbi Shimon holds it is specifically in the cities that these animals do not require intent in order to become susceptible to impurity, because they are generally used for food.

And if one broke its neck it, so too – וְאִי דְּעַרְפֵיהּ מִיעֲרָף הָכִי נַמִּי: According to Rashi, in a case where the firstborn donkey's neck is broken, the Rabbis also hold that intent is necessary in order to render it susceptible to impurity. According to Rabbeinu Gershom Meor HaGola, the Gemara's point is precisely the opposite: Even according to Rabbi Shimon, intent is unnecessary in order to render it susceptible to impurity. This is because breaking the neck is equivalent to slaughtering in that it renders the flesh susceptible to impurity even in the absence of intent. Rabbi Shimon ruled that it was not susceptible to impurity only in the case where it was slaughtered with the explicit intention that it not be used as food.

HALAKHA

An unslaughtered carcass of a kosher animal…or the fat of a kosher animal found in the marketplaces – נִבְלַת בְּהֵמָה טְהוֹרָה...וְהַחֵלֶב בַּשְּׁווּקִים: The unslaughtered carcass of a kosher animal that is found anywhere, and the carcass of a kosher bird and the fat of a kosher animal that is found in the cities, do not require intent in order to become susceptible to the impurity of food because they are used as human food. In addition, they do not require contact with liquid to become susceptible to impurity because they ultimately transmit impurity to humans and utensils if they are at least the volume of an olive-bulk, and any item that transmits major impurity does not require contact with liquid in order to become susceptible to impurity, in accordance with the mishna (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 3:3 and *Kesef Mishne* there).

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הָכָא בְּמַאי עָסְקִינַן – כְּגוֹן שֶׁשְּׁחָטוֹ לְהִתְלַמֵּד בּוֹ, וּבִפְלוּגְתָּא דִּנְימוֹס וְרַבִּי אֱלִיעֶזֶר.

The Gemara answers: **Here, we are dealing with** a case **where he slaughtered** the firstborn donkey in order **to teach himself**[N] how to properly slaughter an animal, and not in order to eat it. In this case, Rabbi Shimon and the Rabbis disagree whether the prohibition against a Jew's consuming it serves as intent that it be treated as food. **And** they disagree **with regard to** the issue that is the subject of **the dispute between Nimos and Rabbi Eliezer.**

דְּתַנְיָא, אָמַר רַבִּי יוֹסֵי: סָח לִי נִימוֹס אָחִיו שֶׁל רַבִּי יְהוֹשֻׁעַ הַגַּרְסִי, שֶׁהַשּׁוֹחֵט אֶת הָעוֹרֵב לְהִתְלַמֵּד בּוֹ – דָּמוֹ מַכְשִׁיר. רַבִּי אֱלִיעֶזֶר אוֹמֵר: דַּם שְׁחִיטָה לְעוֹלָם מַכְשִׁיר.

As it is taught in a *baraita* that **Rabbi Yosei says: Nimos, the brother of Rabbi Yehoshua HaGarsi,**[P] once **related to me that** in the case of **one who slaughters a crow** in order **to teach himself** how to slaughter a bird properly, **its blood renders** other foods susceptible[N] to impurity, as blood is one of the seven liquids that is capable of rendering foods susceptible to impurity. **Rabbi Eliezer says:** The **blood** that comes from the **slaughter** of an animal **always renders** food susceptible to impurity.

רַבִּי אֱלִיעֶזֶר הַיְינוּ תַּנָּא קַמָּא! אֶלָּא לָאו אֵיסּוּרוֹ חִישֵׁב אִיכָּא בֵּינַיְיהוּ,

The Gemara asks: **Isn't this** statement of **Rabbi Eliezer** identical to the statement of **the first *tanna***, i.e., Nimos? Both hold that the blood of slaughter renders food susceptible to impurity. **Rather, isn't** the difference **between them** with regard to whether concerning the crow **its prohibition** serves as **its intent** that it should be used as food?

תַּנָּא קַמָּא סָבַר: דָּמוֹ מַכְשִׁיר – לְעָלְמָא, אֲבָל לִגּוּפֵיהּ – בָּעֵי מַחֲשָׁבָה.

Accordingly, **the first *tanna* holds** that the prohibition against consuming a crow does not render it a food. Therefore, **its blood renders** foods **in general** susceptible to impurity, **but to** render the crow **itself** a food, **intent** to eat it is also **required,** as people do not generally consume the meat of crows.

וְאָתָא רַבִּי אֱלִיעֶזֶר לְמֵימַר: דַּם שְׁחִיטָה לְעוֹלָם מַכְשִׁיר, וַאֲפִילּוּ לִגּוּפֵיהּ נַמִּי לָא בָּעֵי מַחֲשָׁבָה.

And Rabbi Eliezer comes to say that **the blood of slaughter always renders** other foods susceptible to impurity, **and even with regard to** the crow **itself, intent** to consume it is **not required,** as he holds that its prohibition serves as intent to consume it. Likewise, Rabbi Shimon and the Rabbis disagree with regard to a firstborn donkey in a case where it is slaughtered only in order to teach oneself how to slaughter properly. According to Rabbi Shimon, intent to eat it is required in order to render it susceptible to the impurity of food, while according to the Rabbis the prohibition to eat it in this case serves as intent for it to be used as food.

מִמַּאי? דִּילְמָא טַעֲמָא דְּרַבִּי אֱלִיעֶזֶר הָתָם – דְּשָׁאנֵי עוֹרֵב, הוֹאִיל וְיֵשׁ בּוֹ סִימָנֵי טְהֳרָה!

The Gemara responds: **From where** is it inferred that the dispute between Nimos and Rabbi Eliezer is with regard to this issue? **Perhaps the reason** for the opinion **of Rabbi Eliezer there** is **that a crow is different, since it has** some **indicators of a kosher** bird,[N] and is therefore considered food. By contrast, with regard to a donkey, which has no indicators of a kosher animal, slaughtering it in order to learn how to slaughter properly does not render it food.

וּמִנַּלַן דְּסִימָנֵי טְהֳרָה מִילְּתָא הִיא – דְּקָתָנֵי עֲלָהּ דְּהַהִיא, אָמַר רַבִּי שִׁמְעוֹן: מַה טַּעַם – הוֹאִיל וְיֵשׁ בּוֹ סִימָנֵי טְהֳרָה.

The Gemara presents support for this explanation: **And from where do we** derive **that indicators of a kosher** animal **are** considered a significant **matter** concerning the impurity of food? **As** a *baraita* **teaches with regard to** the mishna cited on 10a that **Rabbi Shimon says: What is the reason** that the meat of the camel, hare, rock-badger, and pig are automatically susceptible to impurity of food without any other conditions? It is **because they have** some **indicators of kosher** animals.

NOTES

Where he slaughtered the firstborn donkey in order to teach himself – כְּגוֹן שֶׁשְּׁחָטוֹ לְהִתְלַמֵּד בּוֹ: Rashi explains that if he slaughtered the donkey in order to eat it, or even without specifying a reason, even Rabbi Shimon would agree that the donkey is defined as food, since slaughter by a Jew generally renders an animal susceptible to impurity as if he had intended that the animal would become food. But if he explicitly slaughtered it to teach himself how to slaughter properly, Rabbi Shimon holds that this is equivalent to breaking the neck. According to the Rabbis, though, since the act of slaughtering did occur, the principle of: The prohibition to eat it serves as intent to treat it as food, can still be applied.

Rabbeinu Gershom Meor HaGola explains that according to Rava, the principle that its prohibition serves as intent to treat it as food is entirely incorrect, as Rava mentioned previously. Instead, Rabbeinu Gershom Meor HaGola offers the opposite interpretation: In a case where the donkey's neck is broken, Rabbi Shimon agrees with the Rabbis that no intent is necessary in order for the donkey to become susceptible to impurity. The reason is that the status of breaking the neck in this case is analogous to standard slaughter, which renders the animal susceptible to impurity even without intent. Rabbi Shimon's opinion that it is not susceptible to impurity is applicable only in a case where it was slaughtered with the explicit intention that it would not be used as food. The Rabbis, by contrast, hold that such a slaughter would still render the animal susceptible to impurity.

One who slaughters a crow…its blood renders other foods susceptible – הַשּׁוֹחֵט אֶת הָעוֹרֵב...דָּמוֹ מַכְשִׁיר: The *halakha* is not in accordance with any of these opinions, as the Rabbis disagree with Rabbi Eliezer and hold that the blood of non-kosher animals does not render other foods susceptible to impurity (see *Makhshirin* 6:7).

A crow is different since it has indicators of a kosher bird – שָׁאנֵי עוֹרֵב הוֹאִיל וְיֵשׁ בּוֹ סִימָנֵי טְהֳרָה: As the Gemara (*Ḥullin* 61b) states, the crow has two of the four indicators of kosher birds mentioned by the Sages. The commentaries dispute which two indicators are referred to: Some say the crow does not prey on its food and has an extra finger, while others suggest it has an extra finger and its gizzard peels.

PERSONALITIES

Nimos the brother of Rabbi Yehoshua HaGarsi – נִימוֹס אָחִיו שֶׁל רַבִּי יְהוֹשֻׁעַ הַגַּרְסִי: Very little is known about Nimos, whose full name was apparently Onomeus, taken from the Greek word Οινόμαυς, Oinomaus, and shortened to Nimos. In the *Tosefta*, the name is written as Onimis. With regard to Rabbi Yehoshua HaGarsi, it is known that he was a student of Rabbi Akiva, and when Rabbi Akiva was imprisoned Rabbi Yehoshua attended to him. He was with Rabbi Akiva at the time of his death and attended to his burial as well, for which he was rewarded by Elijah the prophet revealing himself to him. All that remains of his statements is one response to the claim of a heretic.

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וְכִי תֵּימָא: אִי מִשּׁוּם סִימָנֵי טָהֳרָה, מַאי אִירְיָא לְהִתְלַמֵּד? אֲפִילּוּ לְהִתְעַסֵּק נַמִי! אֵין הָכִי נַמִי, וּמִשּׁוּם נִימּוֹס.

And if you would say that **if** the meat of the crow is susceptible to the impurity of food **because of** its **kosher indicators, why** do Rabbi Eliezer and Nimos **specifically** disagree in the case where it was slaughtered in order **to teach oneself** how to slaughter properly? **Even** if the one who slaughtered it **acted unawares,** Rabbi Eliezer should hold that its flesh should be suceptible to impurity. The response would be that **yes, this is indeed so** according to Rabbi Eliezer, **and** they disagreed in this case only **because of** the opinion of **Nimos,** who holds that even where one slaughtered the crow intentionally, if he slaughtered it in order to teach himself how to slaughter properly the crow is not susceptible to impurity.

אֵיתִיבֵיהּ: לֹא רָצָה לִפְדּוֹתוֹ – עוֹרְפוֹ בְּקוֹפִיץ מֵאֲחוֹרָיו וְקוֹבְרוֹ, וְאָסוּר בַּהֲנָאָה, דִּבְרֵי רַבִּי יְהוּדָה, וְרַבִּי שִׁמְעוֹן מַתִּיר!

§ The Gemara **raises an objection** from a *baraita* **to** the opinion of Rabba, who holds that even according to the opinion of Rabbi Shimon it is prohibited to derive benefit from a firstborn donkey following the breaking of its neck: If one **does not want to redeem**[H] his firstborn donkey with a lamb, **he breaks** the donkey's **neck from behind with a cleaver**[B] **and buries** the donkey, **and it is prohibited to** derive **benefit** from the donkey; this is **the statement of Rabbi Yehuda. And Rabbi Shimon deems** it **permitted** for one to derive benefit from the donkey.

אֵימָא: וּמֵחַיִּים אָסוּר בַּהֲנָאָה, וְרַבִּי שִׁמְעוֹן מַתִּיר.

The Gemara responds: **Say** the *baraita* means: **And while** the donkey is still **alive** it is **prohibited to** derive **benefit** from it; this is the statement of Rabbi Yehuda. **And Rabbi Shimon deems** it **permitted.** Perhaps Rabbi Shimon agrees that following the breaking of its neck, it is prohibited to derive benefit from it.

וְהָא מִדְּסֵיפָא מֵחַיִּים הָוֵי – רֵישָׁא לָאו מֵחַיִּים.

The Gemara challenges: **But from** the fact **that the latter clause** of the *baraita* **is** referring to the prohibition to derive benefit **while** the donkey is **alive** it is apparent that **the first clause,** due to which this objection was raised, is **not** referring to deriving benefit **while** it is still **alive.**

דְּקָתָנֵי סֵיפָא: לֹא יְמִיתֶנּוּ לֹא בְּקָנֶה וְלֹא בְּמַגָּל וְלֹא בְּקַרְדּוֹם וְלֹא בְּמֵגֵירָה, וְלֹא יְכַנְּסֶנּוּ לְחֶדֶר וְיַנִּיחֶנּוּ דֶּלֶת לְפָנָיו בִּשְׁבִיל שֶׁיָּמוּת. וְאָסוּר בְּגִיזָּה וַעֲבוֹדָה, דִּבְרֵי רַבִּי יְהוּדָה, וְרַבִּי שִׁמְעוֹן מַתִּיר!

As the latter clause teaches: One may not kill the firstborn donkey **with a reed, nor with a sickle, nor with an ax, nor with a saw; nor may one put it in a room and close the door so that it will die** from starvation. These are not the manners of killing the animal mandated by the Torah, which requires one to break its neck. **And shearing** the donkey **or** using it for **labor is prohibited;**[H] this is **the statement of Rabbi Yehuda. And Rabbi Shimon deems** it **permitted** to shear it and to perform labor with it. Since the latter clause mentions the prohibition against shearing and working the animal, which applies only when the animal is still alive, the first clause must be referring to a case where the animal was already dead.

רֵישָׁא וְסֵיפָא מֵחַיִּים, רֵישָׁא – בַּהֲנָאַת דָּמָיו, סֵיפָא – בַּהֲנָאַת גּוּפוֹ.

The Gemara responds: **The first clause and the latter clause** are both referring to a case where the animal is **alive,** but **the first clause** is referring **to** the prohibition against deriving **benefit** from **its value**[H] by renting or selling it, while **the latter clause** is referring **to** deriving **benefit** from the animal **itself**[N] by shearing it or performing labor with it.

וְצָרִיכָא, דְּאִי תְּנָא הֲנָאַת דָּמָיו – בְּהָהוּא קָא שָׁרֵי רַבִּי שִׁמְעוֹן, אֲבָל בַּהֲנָאַת גּוּפוֹ – אֵימָא מוֹדֶה לֵיהּ לְרַבִּי יְהוּדָה. וְאִי תְּנָא בַּהֲנָאַת גּוּפוֹ – בְּהָהִיא קָאָסַר רַבִּי יְהוּדָה, אֲבָל בַּהֲנָאַת דָּמָיו – אֵימָא מוֹדֶה לְרַבִּי שִׁמְעוֹן, צְרִיכָא.

And it is **necessary** to state the dispute between Rabbi Yehuda and Rabbi Shimon in both cases, **as had** the *tanna* **taught** only the case of deriving **benefit** from **its value** one would think that **in that** case **Rabbi Shimon deems** deriving benefit **permitted; but in** the case of deriving **benefit** from the donkey **itself, say** that Rabbi Shimon **concedes to Rabbi Yehuda** that it is forbidden. **And had** the *tanna* **taught** only the case of deriving **benefit** from the animal **itself** one would think that **in that** case **Rabbi Yehuda deems** deriving benefit **forbidden; but in** the case of deriving **benefit** from **its value, say** that he **concedes to Rabbi Shimon.** Therefore, it is **necessary** to teach the dispute in both instances.

וְכֵן אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: מוֹדֶה רַבִּי שִׁמְעוֹן לְאַחַר עֲרִיפָה שֶׁהוּא אָסוּר.

The Gemara cites an additional *amora* who agrees with Rabba: **And similarly, Rav Naḥman says** that **Rabba bar Avuh says: Rabbi Shimon concedes that after breaking** the donkey's **neck it is prohibited** to derive benefit from it.

HALAKHA

If one does not want to redeem, etc. – לֹא רָצָה לִפְדּוֹתוֹ וכו׳: If the owner does not wish to redeem a firstborn donkey, he must behead it. He may not kill it with a stick, a reed, an ax, or a saw, but only with a cleaver. In addition, he may not bring it into a room and close the door, forcing it to remain inside until it dies. This ruling is in accordance with the *baraita* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:7; *Shulḥan Arukh*, *Yoreh De'a* 321:11).

And shearing the donkey or using it for labor is prohibited – וְאָסוּר בְּגִיזָּה וַעֲבוֹדָה: It is prohibited to work a firstborn donkey or shear it in order to derive benefit from its hair prior to its redemption. If its hair was messy or there was a wound on the hair, it is permitted to shear it for the good of the donkey itself, but the hair is still forbidden and should therefore be buried. This ruling is in accordance with the opinion of Rabbi Yehuda, as explained by the Gemara (*Shulḥan Arukh*, *Yoreh De'a* 321:9 and *Beur HaGra* there).

Deriving benefit from its value – הֲנָאַת דָּמָיו: It is prohibited to derive benefit from a firstborn donkey until it is redeemed. If it was sold prior to being redeemed the money received for it is forbidden. This is in accordance with the opinion of Rabbi Yehuda, as explained by the Gemara. This applies only when it was sold without its status being specified, but if the seller informed the purchaser that it was a firstborn donkey, and it was sold for the sake of that portion of its value which is greater than that of the lamb used to redeem it, the money is permitted. In fact, it is even permitted to sell it in this manner *ab initio* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:4; *Shulḥan Arukh*, *Yoreh De'a* 321:8).

BACKGROUND

Cleaver – קוֹפִיץ:



Egyptian cleaver from the second millennium BCE

NOTES

Deriving benefit from the animal itself – הֲנָאַת גּוּפוֹ: The Rosh emphasizes that the prohibitions mentioned here of shearing and working a firstborn donkey are classified as prohibitions of deriving benefit. By contrast, the prohibition against working or shearing a firstborn kosher animal (see Deuteronomy 15:19) applies even if no benefit is derived from the wool (see 24b). The reason is that a firstborn kosher animal has inherent sanctity and therefore is offered on the altar, and the Sages decreed that the same applies to sacrificial animals that developed a blemish and were redeemed, as their value has sanctity (see 25a). A firstborn donkey has no sanctity, just a forbidden status, and the value of its redemption does not assume consecrated status but remains non-sacred (see *Meromei Sadeh*).

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וַאֲמַר רַב נַחְמָן: מְנָא אָמִינָא לָהּ? דְּתַנְיָא: ״וְעֵרַפְתּוֹ״, נֶאֱמַר כָּאן עֲרִיפָה, וְנֶאֱמַר לְהַלָּן עֲרִיפָה, מַה לְהַלָּן אָסוּר – אַף כָּאן אָסוּר.

And Rav Naḥman said: From where do I say it? As it is taught in a *baraita* that the Torah states: "And if you do not redeem it, **then you shall break its neck**" (Exodus 13:13). The expression of **breaking the neck is stated here, and** the expression of **breaking the neck is stated there** with regard to the heifer whose neck is broken (see Deuteronomy 21:4). **Just as there,** in the case of the heifer whose neck is broken, it is **prohibited** to derive benefit from it following the ceremony, **so too here, it is prohibited** to derive benefit from a firstborn donkey following the breaking of its neck.

מַנִּי? אִילֵּימָא רַבִּי יְהוּדָה – מֵחַיִּים מֵיסַר אָסוּר! אֶלָּא לָאו רַבִּי שִׁמְעוֹן הִיא.

The Gemara clarifies: **Who is** the *tanna* cited in this *baraita*? **If we say** that it is **Rabbi Yehuda,** that is difficult, as he holds that it is already **prohibited** to derive benefit from a firstborn donkey **while** it is still **alive.** Why, then, would the verse need to forbid it again following the breaking of its neck? **Rather, is it not** the opinion of **Rabbi Shimon,** indicating that he concedes that deriving benefit from the donkey is prohibited following the breaking of its neck?

אֲמַר לֵיהּ רַב שֵׁשֶׁת, סָפְרָא חַבְרָךְ תַּרְגּוּמָהּ: לְעוֹלָם רַבִּי יְהוּדָה, וְאִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא עֲרִיפָה בִּמְקוֹם פְּדָיָיה עוֹמֶדֶת, מַה פְּדָיָיה מַתֶּרֶת – אַף עֲרִיפָה מַתֶּרֶת, קָא מַשְׁמַע לָן.

Rav Sheshet said to Rav Naḥman: **Safra, your colleague, interpreted it** as follows: **Actually, Rabbi Yehuda** is the *tanna* cited, **and it was necessary** for the verse to prohibit deriving benefit after the donkey's death as well, as it might **enter your mind to say** that **breaking the neck stands in place of redeeming** the donkey, as it is stated: "And if you do not redeem it, then you shall break its neck" (Exodus 13:13). Therefore, it could be claimed that **just as redemption permits** one to derive benefit from the firstborn donkey, **so too, breaking the neck permits** one to derive benefit from it. Therefore, the verse **teaches us** that breaking the neck does not permit one to derive benefit from it.

אָמַר רַב נַחְמָן: מְנָא אָמִינָא לָהּ? מִדְּתָנֵי לֵוִי: הוּא הִפְסִיד מָמוֹנוֹ שֶׁל כֹּהֵן – לְפִיכָךְ יִופְסַד מָמוֹנוֹ.

Rav Naḥman said: From where do I say that Rabbi Shimon holds it is prohibited to derive benefit from a firstborn donkey following the breaking of its neck? I say it **from that which Levi teaches** in a *baraita* with regard to the reason the Torah commands that the donkey's neck be broken: **He,** the owner, **caused a loss of the money of a priest** by not giving him a lamb in exchange for the donkey. **Therefore, his money shall** also **be lost.**

מַנִּי? אִילֵּימָא רַבִּי יְהוּדָה – הָא מִיפְסַד וְקָאֵי! אֶלָּא לָאו רַבִּי שִׁמְעוֹן הִיא.

The Gemara clarifies: **Whose** opinion is followed in this *baraita*? **If we say** it is the opinion of **Rabbi Yehuda,** the donkey's monetary value **is already lost,** as it was already prohibited to derive benefit from it while it was alive. **Rather, is it not** the opinion of **Rabbi Shimon?** This indicates that breaking the neck of the donkey renders deriving benefit from it prohibited.

אִיבָּעֵית אֵימָא רַבִּי יְהוּדָה, וְאִיבָּעֵית אֵימָא רַבִּי שִׁמְעוֹן;

The Gemara responds: **If you wish, say** the *baraita* follows the opinion of **Rabbi Yehuda, and if you wish, say** instead that it follows the opinion of **Rabbi Shimon,** even if he holds that it is permitted to derive benefit from a firstborn donkey after its neck is broken.

אִיבָּעֵית אֵימָא רַבִּי יְהוּדָה – אַפְסִידָא דְּבֵינֵי בֵּינֵי,

The Gemara explains: **If you wish, say** the *baraita* follows the opinion of **Rabbi Yehuda,** and it is referring to **the loss of** the difference **between** the value of the donkey while it is alive **and** the value of the lamb given as redemption to the priest, which is less than that of the donkey. This value, which the owner would have gained had he redeemed the donkey, is lost once the donkey is not redeemed.

וְאִיבָּעֵית אֵימָא רַבִּי שִׁמְעוֹן – לְפָחַת מִיתָה.

And if you wish, say instead that it is the opinion of **Rabbi Shimon,** and although he permits deriving benefit from the donkey after the breaking of its neck, there is nevertheless **a depreciation** of value caused by the **death** of the animal, as a dead donkey is worth less than a live one.

וְכֵן אָמַר רֵישׁ לָקִישׁ: מוֹדֶה רַבִּי שִׁמְעוֹן לְאַחַר עֲרִיפָה שֶׁהוּא אָסוּר. וְרַבִּי יוֹחָנָן, וְאִי תֵּימָא רַבִּי אֶלְעָזָר אָמַר: עֲדַיִין הִיא מַחֲלוֹקֶת.

The Gemara comments: **And Reish Lakish similarly says** that **Rabbi Shimon concedes that** deriving benefit from a firstborn donkey **after** the **breaking of** its **neck is prohibited,** in accordance with the statements of Rabba and Rav Naḥman. **But Rabbi Yoḥanan, and some say Rabbi Elazar, says:** The matter **is still** subject to **dispute,** i.e., Rabbi Shimon disagrees with Rabbi Yehuda even after the death of the firstborn donkey, and permits deriving benefit from it even then.

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HALAKHA

You shall redeem it immediately – תִּפְדֶּה מִיָּד: The mitzva to redeem a firstborn donkey is in effect from the time it is born until the time it dies. One should ideally redeem it immediately, so as not to delay the performance of a mitzva (*Shulḥan Arukh*, *Yoreh De'a* 321:1).

אִיכָּא דְּמַתְנֵי לָהּ לְהָא דְּרַב נַחְמָן אַהָא: הַמְקַדֵּשׁ בְּפֶטֶר חֲמוֹר – אֵינָהּ מְקוּדֶּשֶׁת. לֵימָא מַתְנִיתִין דְּלָא כְּרַבִּי שִׁמְעוֹן? אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: לְאַחַר עֲרִיפָה, וְדִבְרֵי הַכֹּל.

There are those who teach that which Rav Naḥman said concerning the opinion of Rabbi Shimon **with regard to this,** i.e., the mishna in *Kiddushin* (56b): In the case of **one who betroths** a woman **with a firstborn donkey,** the woman **is not betrothed,** as it is prohibited to derive benefit from the donkey. **Let us say that the mishna is not in accordance with** the opinion of **Rabbi Shimon,** as he holds that one is permitted to derive benefit from a firstborn donkey. **Rav Naḥman says** that **Rabba bar Avuh says:** It is referring to a case of betrothal **after** the **breaking of the** donkey's **neck, and all agree,** even Rabbi Shimon, that it is prohibited to derive benefit from it at that stage.

אִיכָּא דְּאָמְרִי: הָא מַנִּי? לָא רַבִּי יְהוּדָה וְלָא רַבִּי שִׁמְעוֹן, אִי רַבִּי שִׁמְעוֹן – תִּיקַּדֵּשׁ בְּכוּלֵּיהּ, אִי רַבִּי יְהוּדָה – תִּיקַּדֵּשׁ בְּהַךְ דְּבֵינֵי בֵּינֵי!

There are those **who say** that the discussion with regard to the mishna proceeded as follows: In accordance with **whose** opinion **is this?** Ostensibly, it is **neither** the opinion of **Rabbi Yehuda nor** that of **Rabbi Shimon. If** it is in accordance with the opinion of **Rabbi Shimon,** who permits deriving benefit from a firstborn donkey, the woman **should be betrothed with the entire** value. **If** it follows the opinion of **Rabbi Yehuda, she should be betrothed with that difference** between the value of the donkey after being redeemed, which remains hers, **and** the value of the lamb that must be given to the priest in exchange for the donkey.

אָמַר רַבָּה בַּר אֲבוּהּ אָמַר רַב: לְעוֹלָם רַבִּי יְהוּדָה, וּכְגוֹן שֶׁאֵינוֹ שָׁוֶה אֶלָּא שֶׁקֶל. וְסָבַר לָהּ כְּרַבִּי יוֹסֵי בַּר יְהוּדָה. דְּתַנְיָא: ״תִּפְדֶּה״ – תִּפְדֶּה מִיָּד, תִּפְדֶּה כָּל שֶׁהוּא. רַבִּי יוֹסֵי בַּר יְהוּדָה אוֹמֵר: אֵין פְּדָיָיה פְּחוּתָה מִשֶּׁקֶל.

Rabba bar Avuh says that **Rav says: Actually,** it follows the opinion of **Rabbi Yehuda, and** is referring to a case **where** the firstborn donkey **is worth only a shekel,** the same value as a lamb suitable for redemption, in which case there is no difference between the value of the donkey and that of the lamb. **And** Rabbi Yehuda **holds in accordance with** the opinion of **Rabbi Yosei bar Yehuda** that one may not redeem a firstborn donkey with a lamb that is less than the value of a shekel, **as it is taught** in a *baraita*: When the Torah states: "**You shall redeem,**" with regard to a firstborn donkey, it teaches that **you shall redeem** it **immediately,**[H] and **you shall redeem**[N] it for **any amount. Rabbi Yosei bar Yehuda says: There is no redemption** for **less than a shekel.**

אָמַר מָר: ״תִּפְדֶּה״ תִּפְדֶּה מִיָּד, תִּפְדֶּה כָּל שֶׁהוּא. פְּשִׁיטָא!

The Gemara analyzes the *baraita*: **The Master said** that the verse: "**You shall redeem,**" teaches that **you shall redeem** it **immediately,** and **you shall redeem** it for **any amount.** The Gemara asks: Isn't it **obvious?** Why is it necessary to derive these *halakhot* from the verse?

אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וְאִיתְּקַשׁ לִבְכוֹר אָדָם, מַה בְּכוֹר אָדָם – אַחַר שְׁלֹשִׁים, וְחָמֵשׁ, הַאי נַמִּי – אַחַר שְׁלֹשִׁים, וְחָמֵשׁ,

The Gemara answers: It **was necessary,** as it might **enter your mind to say** that **since** the mitzva of redeeming a firstborn donkey **is juxtaposed with** that of redeeming a woman's **firstborn son** in the verse: "Yet you shall redeem the firstborn of man, and the firstborn of non-kosher animals you shall redeem" (Numbers 18:15), it should be inferred that **just as** a woman's **firstborn son** is redeemed **after** the baby is **thirty** days old **and** involves giving the monetary value of **five** *sela* to a priest, as stated in the next verse: "And their redemption-money, from a month old you shall redeem them, it shall be, according to your valuation, five shekels of silver" (Numbers 18:16), **this** firstborn donkey **too** should be redeemed **after** it is **thirty** days old, **and** a lamb whose value is at least **five** *sela* should be given to the priest.

קָא מַשְׁמַע לָן: ״תִּפְדֶּה״ – מִיָּד, ״תִּפְדֶּה״ – כָּל שֶׁהוּא.

Therefore, the *baraita* **teaches us: "You shall redeem,"** indicating that the redemption of the donkey must be done **immediately** after its birth, and that **you shall redeem** it for **any amount.**

NOTES

You shall redeem…you shall redeem [*tifde*] – תִּפְדֶּה תִּפְדֶּה: Rashi explains that this refers to the fact that twice the Torah stated the mitzva: To redeem a firstborn donkey with a lamb (see Exodus 13:13 and 34:20). It appears from the *Sifrei* on Numbers 18:15 that this refers to the repetition of the term: You shall redeem, in the following verse: "Yet you shall redeem the firstborn of man, and the firstborn of non-kosher animals you shall redeem" (Numbers 18:15). Since the second usage of the term: "You shall redeem [*tifde*]," with regard to firstborn non-kosher animals is unnecessary, it may be used to derive the *halakhot* referred to in the Gemara. This interpretation also accords with the Gemara's explanation here of the *baraita* (see also *Mekhilta deRashbi* on Exodus 13:13).

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רַבִּי יוֹסֵי בַּר יְהוּדָה אוֹמֵר: אֵין פִּדְיָיה פְּחוּתָה מִשֶּׁקֶל. מִמַּה נַּפְשָׁךְ, אִי מַקִּישׁ לִבְכוֹר אָדָם – חֲמֵשׁ לִיפְעֵי, וְאִי לָא מַקִּישׁ – שֶׁקֶל מְנָא לֵיהּ?

The *baraita* also states that **Rabbi Yosei bar Yehuda says: There is no redemption** for **less than a shekel.** The Gemara asks: **Whichever** way **you** look at it, this statement is difficult: **If** Rabbi Yosei bar Yehuda holds that the verse **compares** a firstborn donkey **to** a woman's **firstborn son, he should require** a lamb worth **five** *sela*, **and if** the verse **does not compare** them, **from where** does Rabbi Yosei bar Yehuda derive that a lamb worth **a shekel** is necessary?

לְעוֹלָם לָא מַקִּישׁ; אָמַר רָבָא: אָמַר קְרָא ״וְכָל עֶרְכְּךָ יִהְיֶה בְּשֶׁקֶל הַקֹּדֶשׁ״ – כָּל עֶרְכִּין שֶׁאַתָּה מַעֲרִיךְ לֹא יְהוּ פְּחוּתִין מִשֶּׁקֶל.

The Gemara answers: **Actually,** the verse **does not compare** them, and the reason a lamb worth a shekel is required is due to that which **Rava says: The verse states** with regard to redemption of consecrated property: **"And all your valuations shall be with the shekel of the Sanctuary"** (Leviticus 27:25), which indicates that **all valuations that you assess should not be less than** the value of **a shekel.**

וְרַבָּנַן: הַהוּא

And the Rabbis who disagree with him hold that **that** verse

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בְּהֶשֵּׁג יָד כְּתִיב.

is written with regard to affordability, i.e., a case where one vows to give the valuation of an individual to the Temple but does not have sufficient funds to fulfill his vow. In such a case, he must pay at least a shekel. It does not apply to other matters.

אָמַר רַב נַחְמָן: הֲלָכָה כְּדִבְרֵי חֲכָמִים. וְכַמָּה? אָמַר רַב יוֹסֵף: אֲפִילּוּ פַּטְרוּזָא בַּר דַּנָקָא. אָמַר רָבָא, אַף אֲנַן נַמִּי תָּנֵינָא: גָּדוֹל וְקָטָן.

Rav Naḥman says: The ***halakha*** is **in accordance with the statement of the Rabbis**[H] that one may redeem a firstborn donkey with a lamb that is worth even less than a shekel. **And how much** must the lamb be worth? **Rav Yosef says: Even a lean lamb** [***patruza***][L] that is **worth** only a ***ma'a*** [***danka***][L] may be used. **Rava says: We learn** in the mishna (9a) **as well** that the owner may give either **a big or a small** lamb, which supports Rav Yosef's ruling.

פְּשִׁיטָא! מַהוּ דְּתֵימָא: כּוּלֵּי הַאי לָא; אִי נַמִּי, פַּטְרוּזָא לָא – קָא מַשְׁמַע לָן.

The Gemara asks: Isn't it **obvious** that even a lean lamb worth one *ma'a* may be used? The *baraita* states that the lamb may be worth any amount. The Gemara answers: **Lest you say** that if the lamb is of **such** little value one may **not** redeem with it, Rav Yosef states that one may redeem with it. **Alternatively,** it could be claimed that **a lean lamb** may **not** be used for redemption due to its physical state. Therefore, Rav Yosef **teaches us** that one may redeem a firstborn donkey even with such a lamb.

רַבִּי יְהוּדָה נְשִׂיאָה הָוָה לֵיהּ פֶּטֶר חֲמוֹר, שַׁדְרֵיהּ לְקַמֵּיהּ דְּרַבִּי טַרְפוֹן, אֲמַר לֵיהּ: כַּמָּה בָּעֵינָא לְמֵיתַב לְכֹהֵן? אֲמַר לֵיהּ, הֲרֵי אָמְרוּ: עַיִן יָפָה – בְּסֶלַע, עַיִן רָעָה – בְּשֶׁקֶל, בֵּינוֹנִית – בְּרַגְיָא.

Rabbi Yehuda Nesia had a firstborn donkey. He sent it before Rabbi Tarfon,[P] and **said to him: How much do I need to give a priest** for its redemption, i.e., how much must the lamb used for its redemption be worth? Rabbi Tarfon **said to** him: **Didn't** the Sages **say:** One who has **a generous disposition** redeems his firstborn donkey **with** a lamb worth **a *sela*,** one who has **a miserly disposition** redeems his donkey **with** a lamb worth **a shekel,** and one who has **an intermediate** disposition redeems his donkey **with** a lamb worth **a *ragya*?**

אָמַר רָבָא: הִלְכְתָא בְּרַגְיָא. וְכַמָּה? תְּלָתָא זוּזֵי, רָגִיל הָכָא וְרָגִיל הָכָא.

Rava said: The *halakha* is that one must redeem the firstborn donkey **with** a lamb that is worth at least **a *ragya*.**[H] The Gemara asks: **And how much** is the value of a *ragya*? The Gemara answers: A *ragya* is worth **three dinars,** and is called a *ragya* because it is **close to** [***ragil***] **here and close to there,** i.e., its value is between that of a *sela*, which is worth fours dinars, and a shekel, which is worth two dinars.

HALAKHA

The *halakha* is in accordance with the statement of the Rabbis – **הֲלָכָה כְּדִבְרֵי חֲכָמִים:** If one has a firstborn donkey that is worth ten *sela* coins, he may redeem it with a lamb that is worth a dinar. The Gra notes that he may redeem the donkey with the lamb even if the lamb is worth less than that, as Rav Yosef says: With a lean lamb that is worth a *ma'a* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:11; *Shulḥan Arukh*, *Yoreh De'a* 321:5).

The *halakha* is that one must redeem it with a lamb that is worth at least a *ragya* – **הִלְכְתָא בְּרַגְיָא:** If one does not have a lamb with which to redeem a firstborn donkey, he may redeem it at its value and give the money to the priest. This ruling applies when the donkey is worth three dinars or more. If it is worth less than three dinars, it must be redeemed with a lamb or with three dinars. The principle is that one with a generous disposition should not give less than a *sela* coin, one with a miserly disposition should not give less than half a *sela* coin, and one with an intermediate disposition should give three dinars. This is based on the Rambam's version of the text of the Gemara's answer: Here it refers to a lamb, and there it refers to its value (Gra). Others rule like the standard text that the case under discussion is where he redeems it with a lamb, and not where he gives its value. Accordingly, if he comes to consult, he is told to take a lamb that is worth three dinars, while if he redeemed it himself, he has fulfilled his obligation regardless of its value (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:12 and Ra'avad there; *Tur*, *Yoreh De'a* 321; *Shulḥan Arukh*, *Yoreh De'a* 321:5).

PERSONALITIES

Rabbi Yehuda Nesia…Rabbi Tarfon – **רַבִּי יְהוּדָה נְשִׂיאָה...רַבִּי טַרְפוֹן:** There are three known Sages with the name Rabbi Yehuda Nesia. One was the son of Rabban Gamliel, son of Rabbi Yehuda HaNasi, and was a first-generation *amora* in Eretz Yisrael and the head of the academy in Tzippori. The second was the grandson of the first Rabbi Yehuda Nesia and studied under Rabbi Yoḥanan and Reish Lakish, among others. The third was the grandson of the second Rabbi Yehuda Nesia and was a contemporary of Rav Yirmeya, a fourth-generation *amora* in Eretz Yisrael. There is no known rabbi by the name of Rabbi Tarfon who lived at the time of any of these three individuals. Perhaps the mention of his name in this context was due to a scribal error.

LANGUAGE

Lean lamb [*patruza*] – **פַּטְרוּזָא:** This refers to a lamb. The origin of the word is related to the Zoroastrian Middle Persian word padrōz, which means daily, and refers to a regular sacrificial offering.

Ma'a [*danka*] – **דַּנָקָא:** *Danka* is a Persian monetary unit that appears in Middle Persian sources as dāng. Like the Aramaic *ma'a*, it constituted one-sixth of a dinar. The term was also used to mean one-sixth of anything.

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HALAKHA

One who has a firstborn donkey but does not have a lamb with which to redeem it – מִי שֶׁיֵּשׁ לוֹ פֶּטֶר חֲמוֹר וְאֵין לוֹ שֶׂה לִפְדּוֹתוֹ: One who has a firstborn donkey but does not have a lamb with which to redeem it redeems it at its value and gives that money to the priest, in accordance with the statement of Reish Lakish (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:11; *Shulḥan Arukh*, *Yoreh De'a* 321:5).

One who redeems the firstborn donkey of another – הַפּוֹדֶה פֶּטֶר חֲמוֹר שֶׁל חֲבֵירוֹ: In the case of one who redeems the firstborn donkey of another, the donkey is redeemed and it belongs to its owner, in accordance with the conclusion of the Gemara (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:13; *Shulḥan Arukh*, *Yoreh De'a* 321:7).

קַשְׁיָא הִילְכְתָא אַהִילְכְתָא! לָא קַשְׁיָא, כָּאן – בְּבָא לִימָּלֵךְ, כָּאן – בְּעוֹשֶׂה מֵעַצְמוֹ.

The Gemara comments: The contradiction between this ***halakha***, that one must give a lamb worth three dinars, **and** the ***halakha*** stated by Rav Naḥman, that one may give a lamb of any monetary value, poses **a difficulty.** The Gemara responds: That is **not difficult,** as **here** the reference is **to one who comes to consult;** he is told to give a lamb worth three dinars. **There,** the reference is **to one who acts on his own,** i.e., one who redeems his donkey without consultation, in which case he has fulfilled his obligation even if the lamb is worth only a *ma'a*.

אָמַר רַבִּי יִצְחָק אָמַר רֵישׁ לָקִישׁ: מִי שֶׁיֵּשׁ לוֹ פֶּטֶר חֲמוֹר וְאֵין לוֹ שֶׂה לִפְדּוֹתוֹ – פּוֹדֶהוּ בְּשָׁוְיוֹ. לְמַאן? אִילֵימָא לְרַבִּי יְהוּדָה – הָא אָמַר: הִקְפִּידָה עָלָיו תּוֹרָה בְּשֶׂה! אֶלָּא לְרַבִּי שִׁמְעוֹן.

§ **Rabbi Yitzḥak says** that **Reish Lakish says: One who has a firstborn donkey but does not have a lamb** with which **to redeem it**[H] **may redeem** the donkey **with** a sum of money equal to the donkey's **value** and give it to a priest. The Gemara asks: **In accordance with whose** opinion is this statement? **If we say** that it is **in accordance with** the opinion of **Rabbi Yehuda, doesn't he say** that **the Torah is particular** that the donkey be redeemed **with a lamb** (see 9a)? **Rather,** clearly it is **in accordance with** the opinion of **Rabbi Shimon.**

רַב אַחָא מַתְנֵי הָכִי. רָבִינָא קַשְׁיָא לֵיהּ: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן – הֲלָכָה כְּרַבִּי יְהוּדָה,

The Gemara comments: **Rav Aḥa teaches** it **in this way,** that the statement of Reish Lakish was made in accordance with the opinion of Rabbi Shimon. **Ravina** found this **difficult,** as wherever there is a dispute between **Rabbi Yehuda and Rabbi Shimon, the *halakha* is in accordance with** the opinion of **Rabbi Yehuda.**

וְסָתָם לָן תַּנָּא כְּרַבִּי יְהוּדָה, וְאַתְּ אָמְרַתְּ הֲלָכָה כְּרַבִּי שִׁמְעוֹן?!

And furthermore, **the *tanna* taught us an unattributed** mishna **in accordance with** the opinion of **Rabbi Yehuda.** The mishna on 9a states that in a case where the firstborn status of a donkey is uncertain, the owner must redeem it with a lamb to abrogate its forbidden status, and he may then keep the lamb. The Gemara on 9b explains that this is in accordance with the opinion of Rabbi Yehuda that a firstborn donkey is forbidden before its redemption. **And you say** that Reish Lakish rules that **the *halakha* is in accordance with** the opinion of **Rabbi Shimon?**

אֶלָּא, אֲפִילּוּ תֵּימָא רַבִּי יְהוּדָה – לֹא יְהֵא חָמוּר מִן הַהֶקְדֵּשׁ, וְלֹא אָמְרָה תּוֹרָה בְּשֶׂה לְהַחְמִיר עָלָיו, אֶלָּא לְהָקֵל עָלָיו. רַב נַחְמָן בְּרֵיהּ דְּרַב יוֹסֵף פָּרֵיק לֵיהּ בְּשִׁילְקֵי בְּשָׁוְיוֹ.

Ravina concludes: **Rather,** the statement of Reish Lakish is correct **even** if **you say** that the *halakha* is in accordance with the opinion of **Rabbi Yehuda, as** the *halakha* of a firstborn donkey **should not be more stringent than** that of **consecrated items.** One who redeems a consecrated animal from its consecrated status redeems it with any movable property that is worth its value. **And the Torah did not state** that one must redeem a firstborn donkey **with a lamb** in order **to be stringent with** the owner, **but** in order **to be lenient with** the owner such that he is not obligated to redeem it at its value, as a lamb is worth less than a donkey. The Gemara relates that **Rav Naḥman, son of Rav Yosef, redeemed** a firstborn donkey **with boiled vegetables** that were worth **its value.**

אָמַר רַב שֵׁיזְבִי אָמַר רַב הוּנָא: הַפּוֹדֶה פֶּטֶר חֲמוֹר שֶׁל חֲבֵירוֹ – פִּדְיוֹנוֹ פָּדוּי. אִיבַּעֲיָא לְהוּ: פִּדְיוֹנוֹ לַפּוֹדֶה, אוֹ דִלְמָא פִּדְיוֹנוֹ לַבְּעָלִים?

§ **Rav Sheizevi says** that **Rav Huna says:** In the case of **one who redeems the firstborn donkey of another,**[H] **his** object of **redemption,** i.e., the firstborn donkey, **is redeemed,** despite the fact that the owner did not redeem it. **A dilemma was raised before** the Sages: Does **his** object of **redemption** belong **to the one who redeems** it, **or perhaps his** object of **redemption** belongs **to the owner?**

אַלִּיבָּא דְּרַבִּי שִׁמְעוֹן לָא תִּיבָּעֵי לָךְ, כֵּיוָן דְּאָמַר מוּתָּר בַּהֲנָאָה – מְמוֹנָא דִּבְעָלִים הוּא. כִּי תִּיבָּעֵי אַלִּיבָּא דְּרַבִּי יְהוּדָה, דְּאָמַר אָסוּר בַּהֲנָאָה;

The Gemara clarifies: **According to** the opinion **of Rabbi Shimon you should not raise the dilemma, since he says** that prior to the redemption it is **permitted** for the owner **to** derive **benefit** from the firstborn donkey by using it for labor or renting it out. Therefore, it is **the property of the owner,** and giving a lamb to the priest does not change this status. **When you raise the dilemma,** it should be **according to** the opinion **of Rabbi Yehuda, who says** that it is **prohibited to** derive **benefit** from the firstborn donkey prior to its redemption. If so, it does not belong to the owner initially, and only redeeming the donkey with the lamb allows him to take possession of it.

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לְהֶקְדֵּשׁ מִדְּמֵי לֵיהּ, וְרַחֲמָנָא אָמַר: ״וְנָתַן הַכֶּסֶף וְקָם לוֹ״. אוֹ דִלְמָא, כֵּיוָן דְּקָנֵי לְהוּ בְּבֵינֵי וּבֵינֵי, לָא דָּמֵי לְהֶקְדֵּשׁ?

Consequently, one can ask whether the firstborn donkey **is compared to consecrated** property; **and the Merciful One says** with regard to redeeming consecrated property: **"And he will give the money and it will be assured to him"** (see Leviticus 27:19), which indicates that the one who gives the redemption money acquires the item even if he did not consecrate it initially. **Or perhaps since** the owner may redeem the firstborn donkey with a lamb that is worth less than the donkey, **he owns the difference** between the price of the donkey and the price of the lamb, and therefore **it is not similar to consecrated** property, where the one who consecrated it does not retain any ownership of the item.

אֲמַר רַב נַחְמָן, תָּא שְׁמַע: הַגּוֹנֵב פָּטֶר חֲמוֹר שֶׁל חֲבֵירוֹ – מְשַׁלֵּם תַּשְׁלוּמֵי כֶּפֶל לַבְּעָלִים, וְאַף עַל פִּי שֶׁאֵין לוֹ עַכְשָׁיו – יֵשׁ לוֹ לְאַחַר מִכָּאן.

Rav Naḥman said: Come and **hear** a resolution from a *baraita*: In the case of **one who steals the firstborn donkey of another**[H] before it is redeemed and he is then caught, **he pays the payment of double** the principal **to the owner** (see Exodus 22:3). **And even though** the owner **does not have** rights to the donkey **now, he does have** rights to it **afterward,** i.e., after the redemption.

מַנִּי? אִילֵימָא רַבִּי שִׁמְעוֹן – אַמַּאי אֵין לוֹ עַכְשָׁיו? אֶלָּא פְּשִׁיטָא רַבִּי יְהוּדָה;

The Gemara analyzes the *baraita*: **Whose** opinion does this follow? **If we say** that it is in accordance with the opinion of **Rabbi Shimon, why does** the owner **not have** rights to it **now?** Rabbi Shimon holds that it is permitted to derive benefit from a firstborn donkey even before its redemption. **Rather,** it is **obvious** that it is in accordance with the opinion of **Rabbi Yehuda,** who deems it prohibited to derive benefit from a firstborn donkey prior to its redemption.

וְאִי סָלְקָא דַּעְתָּךְ לְהֶקְדֵּשׁ מִדְּמֵינַן לֵיהּ – ״וְגָנַב מִבֵּית הָאִישׁ״ אָמַר רַחֲמָנָא, וְלֹא מִבֵּית הֶקְדֵּשׁ! וְתוּ לָא מִידֵּי.

And if it enters your mind that **we compare it to consecrated** property, then why must the thief pay double the principal? Doesn't **the Merciful One state** with regard to the double payment of a thief: **"And it be stolen from the man's house"** (Exodus 22:6), indicating: **But not** when it is stolen **from the Temple treasury?**[H] In such a case the thief does not pay double. Evidently, a firstborn donkey does not have the status of consecrated property, and if another person redeemed it, it still belongs to the owner. The Gemara concludes: **And nothing more** remains to be said about this issue, as this is a clear proof.

״אַחַת בִּיכְרָה וְאַחַת שֶׁלֹּא בִּיכְרָה״ [כו׳]. תָּנוּ רַבָּנַן: כֵּיצַד אָמְרוּ נִכְנָס לַדִּיר לְהִתְעַשֵּׂר?

§ The mishna states that if a person owned two donkeys, and **one had** previously **given birth and one had not** previously **given birth,** and they gave birth to a male and a female, and it is not clear which donkey gave birth to the male and which to the female, he designates one lamb as redemption due to the uncertainty, as perhaps the one that had not previously given birth was the one that gave birth to the male. The mishna also states that this lamb is tithed with the other non-sacred animals. With regard to this point, the Gemara states that **the Sages taught** in a *baraita*: **In what case did** the Sages **say** that this lamb **enters the pen in order to be tithed?**

אִי אַתָּה יָכוֹל לוֹמַר בְּבָא לְיַד כֹּהֵן – שֶׁהֲרֵי שָׁנִינוּ: הַלָּקוּחַ וְשֶׁנִּיתָּן לוֹ בְּמַתָּנָה – פָּטוּר מִמַּעֲשֵׂר בְּהֵמָה. אֶלָּא בְּיִשְׂרָאֵל שֶׁהָיוּ לוֹ עֲשָׂרָה סְפֵק פְּטֶרֶת חֲמוֹרִים בְּתוֹךְ בֵּיתוֹ, שֶׁמַּפְרִישׁ עֲלֵיהֶן עֲשָׂרָה שֵׂיוִין, וּמַעֲשָׂרָן, וְהֵן שֶׁלּוֹ.

You cannot say that this is referring to a case **where** the lamb had already **entered the possession of a priest, as we learned** in a mishna (55b): An animal **that was purchased** by a person **or that was given to him as a present**[H] **is exempt from animal tithe,** and this lamb was given as a present to the priest. **Rather,** it is referring **to an Israelite who has ten donkeys in his house** whose **firstborn** status is **uncertain,**[H] **who designates ten lambs for them** in order to redeem them due to the uncertainty, **and he tithes** those lambs as well, **and they are his.**

HALAKHA

One who steals the firstborn donkey of another – הַגּוֹנֵב פֶּטֶר חֲמוֹר שֶׁל חֲבֵירוֹ: One who steals the firstborn donkey of another before it is redeemed must pay the double payment to the owner. This is because although it is not currently the owner's, it will belong to him following its redemption (Rambam *Sefer Nezikin*, *Hilkhot Geneiva* 2:3).

But not when it is stolen from the Temple treasury – וְלֹא מִבֵּית הֶקְדֵּשׁ: One who steals consecrated property pays back only the principal (Rambam *Sefer Nezikin*, *Hilkhot Geneiva* 2:1).

An animal that was purchased or that was given to him as a present – הַלָּקוּחַ וְשֶׁנִּיתָּן לוֹ בְּמַתָּנָה: Lambs that were born in that year that one purchased or received are not subject to animal tithe (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:10).

An Israelite who has ten donkeys…whose firstborn status is uncertain – יִשְׂרָאֵל שֶׁהָיוּ לוֹ עֲשָׂרָה סְפֵק פְּטֶרֶת חֲמוֹרִים: In the case of an Israelite who owns ten lambs, each of which has been separated to redeem a donkey whose status as a firstborn is uncertain, all of the lambs retain non-sacred status, and are tithed like all other animals. Therefore, one of them is separated as tithe, and the rest are his as they were previously (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:23).

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מְסַיַּיע לֵיהּ לְרַב נַחְמָן, דְּאָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: יִשְׂרָאֵל שֶׁהָיוּ לוֹ עֲשָׂרָה סְפֵק פְּטָרֵי חֲמוֹרִים – מַפְרִישׁ עֲלֵיהֶן עֲשָׂרָה שַׂיִּין, וּמַעֲשְׂרָן, וְהֵן שֶׁלּוֹ.

The Gemara comments that this *baraita* **supports** the statement **of Rav Naḥman, as Rav Naḥman says** that **Rabba bar Avuh says: An Israelite who has** in his house **ten donkeys** whose **firstborn** status is **uncertain designates ten lambs** to redeem them, **and tithes** the lambs, separating one as a tithe, **and they** all **belong to him,** as a priest cannot prove that he is entitled to any of the ten.

וְאָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: יִשְׂרָאֵל שֶׁהָיוּ לוֹ עֲשָׂרָה פְּטָרֵי חֲמוֹרִים וְדָאִין בְּתוֹךְ בֵּיתוֹ, שֶׁנִּפְלוּ מִבֵּית אֲבִי אִמּוֹ כֹּהֵן, וְאוֹתוֹ אֲבִי אִמּוֹ כֹּהֵן נָפְלוּ לוֹ מִבֵּית אֲבִי אִמּוֹ יִשְׂרָאֵל,

And in addition, **Rav Naḥman says** that **Rabba bar Avuh says:** In the case of **an Israelite who has ten certain firstborn donkeys in his house that were bequeathed** to him **from the household of his mother's father,** who was **a priest**[H] and was therefore exempt from the redemption of firstborn donkeys, **but that mother's father** who was **a priest** had the donkeys **bequeathed to him from the household of his mother's father,** who was **an Israelite,** the donkeys initially required redemption, and the priest should have redeemed them with lambs, though it was permitted for him to keep the lambs for himself.

מַפְרִישׁ עֲלֵיהֶן עֲשָׂרָה שַׂיִּין, וּמְעַשְּׂרָן, וְהֵן שֶׁלּוֹ.

Therefore, his grandson, who inherits these donkeys and is an Israelite, **designates ten lambs for them and tithes them and they are his,** as if his grandfather had designated the lambs himself and bequeathed them to him.

וְאָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: יִשְׂרָאֵל שֶׁהָיוּ לוֹ טְבָלִים מְמוֹרָחִין בְּתוֹךְ בֵּיתוֹ, שֶׁנִּפְלוּ מִבֵּית אֲבִי אִמּוֹ כֹּהֵן, וְאוֹתוֹ אֲבִי אִמּוֹ כֹּהֵן נָפְלוּ לוֹ מִבֵּית אֲבִי אִמּוֹ יִשְׂרָאֵל – מְעַשְּׂרָן וְהֵן שֶׁלּוֹ.

And likewise, **Rav Naḥman says** that **Rabba bar Avuh says:** In the case of **an Israelite who has smoothed** piles of **untithed produce**[N] **in his house,** from which one is obligated to separate *teruma* for the priests and tithes for the Levites, and it is produce **that was bequeathed** to him **from the household of his mother's father,** who was **a priest, and that mother's father** who was **a priest** previously had it **bequeathed to him from the household of his mother's father,** who was **an Israelite, he separates** *teruma* and **tithes** from the produce **and it is his,**[N] just as if his grandfather who was a priest had tithed the produce, acquired the tithe, and bequeathed it to him as an inheritance.

וְצָרִיכָא, דְּאִי אַשְׁמוּעִינַן קַמַּיְיתָא – מִשּׁוּם דְּקָא מַפְרִישׁ וְקָאֵי,

The Gemara comments that both rulings of Rav Naḥman, i.e., the one concerning firstborn donkeys and the one concerning untithed produce, are **necessary. Because had he taught us** only **the first** case, i.e., that of the firstborn donkeys, one could claim that perhaps only in that case the Israelite grandson may keep the lambs; it is considered as if his grandfather who was a priest designated the lambs and acquired them **because** they **stand separated.**[N] An act of separation would have been unnecessary, as the priest could have simply declared that his own lambs were serving to redeem the donkeys.

אֲבָל הָכָא – מַתָּנוֹת שֶׁלֹּא הוּרְמוּ כְּמִי שֶׁלֹּא הוּרְמוּ דָּמְיָין, אֵימָא לָא.

But here, with regard to the untithed produce, one must separate the *teruma* and declare it as such in order for the priest to acquire it. Therefore, perhaps **gifts** to which members of the priesthood are entitled **that were not separated**[H] **are** treated **as if they were not separated,** even if they were already in the possession of a priest. If so, **say** that it is **not** considered as if his grandfather who was a priest acquired the *teruma*.

וְאִי אַשְׁמוּעִינַן הָכָא – דְּאָפְשָׁר לְעַשּׂוֹרֵי מִינֵּיהּ וּבֵיהּ, דְּהָא מַנַּח, אֲבָל הָתָם – כֵּיוָן דְּשֵׁה מֵעָלְמָא בָּעֵי אַתּוּיֵי, וּמַפְרִישׁ וְקָאֵי אֵימָא לָא, צְרִיכָא.

And had Rav Naḥman **taught us** only **here,** with regard to untithed produce, that it is treated as if his grandfather who was a priest separated the *teruma* and acquired it, one might claim that this is only **because it is possible to tithe** the produce **from itself, as** both the untithed produce and the *teruma* that will be separated from it **lie** together. **But there,** with regard to a firstborn donkey, **since one needs to bring a lamb from elsewhere** to redeem it, **say** that the principle that **the lamb stands separated** and does not require additional separation is **not** applied. Therefore, it is **necessary** for both cases to be stated.

אָמַר רַבִּי שְׁמוּאֵל בַּר נָתָן אָמַר רַבִּי חֲנִינָא: הַלּוֹקֵחַ טְבָלִים

§ The Gemara discusses a variation of the previous case. **Rabbi Shmuel bar Natan says** that **Rabbi Ḥanina says:** With regard to **one who purchases untithed produce**

HALAKHA

That were bequeathed to him from the household of his mother's father who was a priest – שֶׁנִּפְלוּ מִבֵּית אֲבִי אִמּוֹ כֹּהֵן: In the case of an Israelite who had ten definite firstborn donkeys in his house that were bequeathed to him by his mother's father who was a priest, and the mother's father had it bequeathed to him by his mother's father who was an Israelite, the current owner separates ten lambs for them and the lambs are his, and are obligated in animal tithe (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:24).

Gifts to which members of the priesthood are entitled that were not separated – מַתָּנוֹת שֶׁלֹּא הוּרְמוּ: Gifts of the priesthood that were not separated are treated as if they were separated. Therefore, in the case of an Israelite who had untithed produce that was bequeathed to him by his mother's father who was a priest, if the Israelite separated *teruma* and tithes, the *teruma* and tithes are considered as if they had been bequeathed to him by his mother's father. Accordingly, if he betrothed a woman with them, she is betrothed, as although he may not eat them, he may sell them to a priest. This ruling is in accordance with the conclusion of the Gemara on *Kiddushin* 54b (Rambam *Sefer Nashim*, *Hilkhot Ishut* 5:6).

NOTES

An Israelite who has smoothed piles of untithed produce, etc. – יִשְׂרָאֵל שֶׁהָיוּ לוֹ טְבָלִים מְמוֹרָחִין וכו': There is no obligation to separate *teruma* or tithes until the process of harvesting and gathering the produce is complete. The definition of this stage is different for each crop. With regard to grain, it is defined as having gathered it into piles and having smoothed out the top of each pile.

He separates *teruma* and tithes from it and it is his – מְעַשְּׂרָן וְהֵן שֶׁלּוֹ: The Israelite separates the *teruma*, which is designated for the priest, and then separates the first tithe, which is designated for the Levite. From the first tithe, one-tenth is separated as *teruma* of the tithe, which is designated for the priest. Second tithe is then taken from the original produce and eaten in Jerusalem, or, during the third and sixth year of the Sabbatical cycle, poor man's tithe is taken instead and given to the needy. The expression: And it is his, refers to *teruma*, first tithe, and *teruma* of the tithe. Although the owner may not eat the *teruma* portions, as a non-priest who does so is liable to be punished with death at the hand of Heaven, nevertheless he may sell it to a priest. The first tithe is also his, as it would have been permitted for his grandfather who was a priest to have sold it to a Levite. In addition, Ezra instituted that first tithe should be given to priests and not to Levites (see Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 1:4), so the priest could have kept it for himself. Since it is not prohibited for an Israelite to consume first tithe, the owner may consume it in this case as well.

They stand separated – מַפְרִישׁ וְקָאֵי: Some commentaries explain that this means that the obligation to give *teruma* and tithes to the priest does not take effect prior to separating the *teruma* from the untithed produce, as the *teruma* does not yet exist before that point. By contrast, with regard to a firstborn donkey the obligation to give a lamb to the priest exists independently, and is not created by the designation of the lamb (*Ḥazon Ish*).

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מְמוֹרָחִין מִן הַגּוֹי – מְעַשְּׂרָן וְהֵן שֶׁלּוֹ.

that is gathered in **smoothed** piles, **from a gentile, he tithes** the piles **but they are his,**[H] as he is not required to give the *teruma* to a priest or the tithes to a Levite.

דְּמַרְחִינְהוּ מַאן? אִילֵימָא דְּמַרְחִינְהוּ גּוֹי – "דְּגָנְךָ" אָמַר רַחֲמָנָא, וְלָא דְּגַן גּוֹי!

The Gemara asks: **Who smoothed** the piles? **If we say that a gentile smoothed them,** doesn't **the Merciful One state: "Your grain"** (Deuteronomy 12:17, 18:4), with regard to *teruma* and tithes, indicating that only grain whose processing is completed by a Jew is subject to the rules of *teruma* and tithes, **but not the grain of a gentile?**[N]

אֶלָּא דְּמַרְחִינְהוּ יִשְׂרָאֵל מֵרְשׁוּת גּוֹי; מְעַשְּׂרָן – דְּאֵין קִנְיָן לְגּוֹי בְּאֶרֶץ יִשְׂרָאֵל לְהַפְקִיעַ מִיַּד מַעֲשֵׂר, וְהֵן שֶׁלּוֹ – דְּאָמַר לֵיהּ: קָאתֵינָא מִכֹּחַ גַּבְרָא דְּלָא מָצֵית אֵישְׁתַּעֵיהּ דִּינָא בַּהֲדֵיהּ.

Rather, clearly **a Jew smoothed them** while they were **in the possession of the gentile**[N] before purchasing them. Therefore, **he tithes them, as a gentile has no** capability of **acquisition**[N] of land **in Eretz Yisrael that would cause the abrogation** of the sanctity of the land, thereby removing it **from** the obligation to **tithe** its produce. **But** the tithes **are** still the Jew's, **as** he **says to** the priest: **I have come** to own this produce **on the basis of** the rights of **a man with whom you cannot engage in litigation,** i.e., a gentile, from whom I bought the produce. Since he is not obligated to give *teruma* or tithes to the priest, I am not required to give them either.

תְּנַן הָתָם: הַמַּפְקִיד פֵּירוֹתָיו אֵצֶל הַכּוּתִי וְאֵצֶל עַם הָאָרֶץ – בְּחֶזְקָתָן לְמַעֲשֵׂר וְלִשְׁבִיעִית,

§ The Gemara cites an additional discussion involving this issue: **We learned** in a mishna **elsewhere** (*Demai* 3:4) that with regard to **one who deposits his produce with a Samaritan**[B] **or with one who is unreliable with regard to tithes** [*am ha'aretz*],[H] when they return it to him, the produce retains **its presumptive status with regard to** the *halakhot* of **tithe and** produce of the **Sabbatical** Year, both of which must be removed from one's property. The Samaritan or *am ha'aretz* is not suspected of having exchanged the deposited produce with untithed produce or produce of the Sabbatical Year.

HALAKHA

He tithes the piles but they are his, etc. – מְעַשְּׂרָן וְהֵן שֶׁלּוֹ וכו': With regard to produce of a gentile that was grown on land purchased by him in Eretz Yisrael, if the work was completed by the gentile there is no obligation to separate *teruma* and tithes. If a Jew purchased the produce after it was detached from the ground but before the processing was completed, and the Jew completed the processing, he is obligated by Torah law to separate all the tithes. Therefore, he separates *teruma* and gives it to the priest. He then separates the first tithe and it is his, and he separates *teruma* of the tithe and sells it to the priest, because he can say to the Levite with regard to the first tithe and to the priest with regard to the *teruma* of the tithe: I come due to an individual from whom you may not take anything, in accordance with the conclusion of the Gemara (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 1:11).

One who deposits his produce with a Samaritan or with an *am ha'aretz* – הַמַּפְקִיד פֵּירוֹתָיו אֵצֶל הַכּוּתִי וְאֵצֶל עַם הָאָרֶץ: If one deposits produce with an *am ha'aretz*, it retains its previous status, as the *am ha'aretz* is not suspected of exchanging the deposit, in accordance with the ruling of the mishna (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 11:13).

BACKGROUND

Samaritan – כּוּתִי: The Samaritans are the descendants of the nations displaced by Sennacherib, king of Assyria, and brought to settle in the Samaria region of Eretz Yisrael in order to replace the Jews who had been exiled to Assyria. Although they were initially idol worshippers, they eventually accepted upon themselves several mitzvot (see II Kings, chapter 17), though the Sages discuss whether this acceptance was sincere. At the beginning of the Second Temple period, during the times of Ezra and Nehemiah, relations between the Samaritans and the Jews deteriorated. The Samaritans later established their own center of worship on Mount Gerizim, as they claimed that the sanctity of that mountain was established by one of the Ten Commandments. In some generations, the Sages recognized Samaritans as Jewish, and even declared that with regard to the mitzvot that the Samaritans adopted, they are even more exacting in their fulfillment than the Jews are. Ultimately, as the Samaritans continued to distance themselves from the Jewish people in virtually every regard, they were accorded the halakhic status of gentiles. A small community of Samaritans survives in Israel to this day, and many reside on Mount Gerizim, outside of Shechem.

NOTES

Doesn't the Merciful One state: Your grain, but not the grain of a gentile – דְּגָנְךָ אָמַר רַחֲמָנָא וְלָא דְּגַן גּוֹי: According to this interpretation, the term "your grain [*deganekha*]" is understood as: Your transforming it into grain [*diggunekha*], meaning that there is no obligation to separate tithes until the time when the produce becomes grain, i.e., when its processing is complete. Since the obligation to separate tithes applies only once the produce is processed, i.e., once it is transformed into grain, the obligation applies only in a case where the Jew processes it, but not when a gentile does so.

Rather, a Jew smoothed them in the possession of the gentile – אֶלָּא דְּמַרְחִינְהוּ יִשְׂרָאֵל מֵרְשׁוּת גּוֹי: The straightforward meaning of the Gemara is that since the smoothing of the pile, which is considered the final stage of the processing of the grain, was performed by a Jew, the obligation to separate *teruma* and tithes takes effect even if the grain belonged to a gentile at that time, according to the opinion that a gentile has no acquisition of land in Eretz Yisrael, which would abrogate the obligation to tithe the produce. This is the understanding of some commentaries, including the Ramban (see *Kiddushin* 41b). Many commentaries hold that the obligation is not dependent upon the action of smoothing the pile, but upon whose possession the produce was in when the smoothing was performed. Therefore, if the Jew works for the gentile, the produce is still considered produce of a gentile, and it is exempt.

As a gentile has no acquisition, etc. – דְּאֵין קִנְיָן לְגּוֹי וכו': Although a gentile owns land that he purchases, according to this opinion his ownership does not abrogate the obligation of separating tithes from the produce. This is derived from the verse: "And the land shall not be sold forever, as it is Mine" (Leviticus 25:23), which indicates that Eretz Yisrael is considered the inheritance of God (see *Gittin* 47a and Jerusalem Talmud, *Demai* 5:8). This issue is subject to a dispute among *tanna'im* and *amora'im*, and some hold that gentile ownership of the land does abrogate the obligation to separate tithes.

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PERSONALITIES

Rav Dimi – רַב דִּימִי: Rav Dimi appears to have been a Babylonian who ascended to Eretz Yisrael, where he was a student of Rabbi Yoḥanan and Rabbi Elazar. He then returned to Babylonia and brought the statements of his teachers with him. Consequently, he was considered one of the *Rabbanan Naḥotei*, the Sages who descended from Eretz Yisrael to Babylonia in order to bring the halakhic traditions of Eretz Yisrael to the Sages there.

אֵצֶל הַגּוֹי – כְּפֵירוֹתָיו; רַבִּי שִׁמְעוֹן אוֹמֵר: דְּמַאי.

But in the case of one who deposits his produce **with a gentile,**[H] the produce returned to him is treated **as the produce of** the gentile, as he presumably exchanged it with his own. **Rabbi Shimon says:** It is treated as **doubtfully tithed produce** [***demai***]**,** as it is uncertain whether the gentile exchanged the produce or not.

אָמַר רַבִּי אֶלְעָזָר: לְהַפְרִישׁ – כּוּלֵּי עָלְמָא לָא פְּלִיגִי, כִּי פְּלִיגִי – לִיתְּנָן לְכֹהֵן; תַּנָּא קַמָּא סָבַר: וַדַּאי חַלְּפִינְהוּ, וּבָעֵי מֵיתְּנִינְהוּ לְכֹהֵן, וְרַבִּי שִׁמְעוֹן סָבַר: דְּמַאי.

The mishna continues: **Rabbi Elazar says: Everyone agrees** that one is obligated **to separate** *teruma* and tithes from the produce that the gentile returned to him. **When they disagree** it is **with regard to giving it to the priest** following the separation. **The first *tanna* holds** that the gentile **certainly exchanged** the produce, **and** therefore the owner **needs to give** the *teruma* **to the priest. And Rabbi Shimon holds** that the produce is treated as ***demai*,** so in order to receive *teruma*, the priest must bring proof that the produce requires tithing.

יָתֵיב רַב דִּימִי וְקָאָמַר לָהָא שְׁמַעֲתָא, אֲמַר לֵיהּ אַבַּיֵי: טַעֲמָא – דְּמַסְפְּקָא לָן אִי חַלְּפִינְהוּ אִי לָא חַלְּפִינְהוּ, הָא וַדַּאי חַלְּפִינְהוּ – דְּכוּלֵּי עָלְמָא בָּעֵי לְמֵיתְּבִינְהוּ לְכֹהֵן. וְהָאָמַר רַבִּי שְׁמוּאֵל אָמַר רַבִּי חֲנִינָא: הַלּוֹקֵחַ טְבָלִים מִן הַגּוֹי מְמוֹרָחִין – מְעַשְּׂרָן וְהֵן שֶׁלּוֹ!

Rav Dimi[P] **sat and stated this *halakha*** of Rabbi Elazar. **Abaye said to him: The reason** that Rabbi Shimon disagrees is **that we are uncertain whether** the gentile **exchanged it** or **whether he did not exchange it. But** if **he definitely exchanged it, everyone** agrees **that** he is **required to give** the *teruma* and tithes **to a priest.** Why? **But doesn't Rabbi Shmuel say** that **Rabbi Ḥanina says:** In the case of **one who purchases untithed produce from a gentile** that is gathered in **smoothed** piles, i.e., it was completely processed, **he tithes** and separates *teruma* from the piles of produce **but they are his,** and he is not required to give the *teruma* to a priest?

דִּלְמָא, כָּאן – בִּתְרוּמָה גְּדוֹלָה, כָּאן – בִּתְרוּמַת מַעֲשֵׂר!

Rav Dimi said to him: **Perhaps here,** in the mishna that indicates that he must give the *teruma* to a priest, it is referring **to *teruma gedola*,** i.e., the *teruma* that is separated from the produce before tithes, whereas **there,** Rabbi Ḥanina's statement that he separates tithes from them but they are his is referring **to** the ***teruma*** that is separated from **the tithe.**

אַזְכְּרֶתֶן מִילְּתָא דְּאָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: מִנַּיִן לַלּוֹקֵחַ טְבָלִים מִמּוֹרָחִין מִן הַגּוֹי שֶׁהוּא פָּטוּר מִתְּרוּמַת מַעֲשֵׂר? שֶׁנֶּאֱמַר: ״וְאֶל הַלְוִיִּם תְּדַבֵּר וְאָמַרְתָּ אֲלֵיהֶם כִּי תִקְחוּ מֵאֵת בְּנֵי יִשְׂרָאֵל״, טְבָלִים שֶׁאַתָּה לוֹקֵחַ מִבְּנֵי יִשְׂרָאֵל – אַתָּה מַפְרִישׁ מֵהֶן תְּרוּמַת מַעֲשֵׂר וְנוֹתְנָהּ לְכֹהֵן, טְבָלִים שֶׁאַתָּה לוֹקֵחַ מִן הַגּוֹי – אִי אַתָּה מַפְרִישׁ מֵהֶן תְּרוּמַת מַעֲשֵׂר וְנוֹתְנָהּ לְכֹהֵן.

Abaye said to him: **You reminded me of a statement that Rabbi Yehoshua ben Levi said: From where** is it derived **that one who purchases from a gentile untithed produce** that is gathered in **smoothed** piles **is exempt from** separating the ***teruma* of the tithe?** It is derived from a verse, **as it is stated: "And you shall speak to the Levites, and say to them: When you take** the tithe from **the children of Israel** … then you shall set apart of it a gift for the Lord, even a tithe of the tithe" (Numbers 18:26). It can be inferred from here that concerning **untithed produce that you purchase from the children of Israel, you separate *teruma* of the tithe from it and give** the *teruma* of the tithe **to a priest,** but concerning **untithed produce that you purchase from a gentile, you do not separate *teruma* of the tithe from it and give it to a priest.**

״וְאִם מֵת נֶהֱנִים בּוֹ״. דְּמִית הֵיכָא? אִילֵימָא דְּמִית בֵּי כֹהֵן וְנֶהֱנָה בּוֹ כֹּהֵן – פְּשִׁיטָא, מְמוֹנָא דִּידֵיהּ הוּא! אֶלָּא, דְּמִית בֵּי בְּעָלִים וְנֶהֱנָה בּוֹ כֹּהֵן – הָא נַמִּי פְּשִׁיטָא!

§ The mishna teaches with regard to the lamb that is used to redeem the firstborn donkey: **And if it dies, one may derive benefit from it.** The Gemara asks: **Where did it die? If we say that it died** in **the house of the priest, and** the mishna means that **the priest may derive benefit from it,** isn't it **obvious?** The lamb **is his property. Rather,** perhaps the mishna means **that it died** in **the house of the owner**[H] before it was given to the priest, **and** teaches that **the priest may derive benefit from it.** Isn't **this also obvious?**

HALAKHA

One who deposits his produce with a gentile – הַמַּפְקִיד פֵּירוֹתָיו… אֵצֶל הַגּוֹי: If one deposits produce with a gentile, it has the status of the gentile's produce, as it is assumed that the gentile exchanged it with his own. Therefore, if the Jew deposited produce whose processing was not yet complete, and when it was returned, the Jew completed the processing, he separates tithes from it. If he deposited untithed produce whose work had been completed, he is obligated to tithe it, as perhaps the gentile did not exchange it for his own produce. But if the Jew deposited non-sacred produce whose processing had been completed and that had already been tithed, he is not required to separate any more tithes, as even if the gentile did exchange it, the gentile's produce is exempt (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 11:15).

That it died in the house of the owner – דְּמִית בֵּי בְּעָלִים: If one designated a lamb with which to redeem a firstborn donkey and the lamb died before being given to the priest, the one who designated it does not bear financial responsibility for the loss, and gives the carcass to the priest, who may derive benefit from it. This ruling is in accordance with the mishna and the conclusion of the Gemara (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:5; *Shulḥan Arukh*, *Yoreh De'a* 321:6).

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סָלְקָא דַּעְתָּךְ אָמִינָא, כָּל כַּמָּה דְּלָא מָטָא לִידֵיהּ – לָא זָכָה בֵּיהּ, קָא מַשְׁמַע לָן: דְּמֵעִידָּנָא דְּאַפְרְשֵׁיהּ, בִּרְשׁוּתֵיהּ דְּכֹהֵן קָאֵי.

The Gemara responds: It might **enter your mind to say** that **as long as** the lamb **has not reached the possession of** the priest, the priest **has not acquired it.** Therefore, the mishna **teaches us that from the time that** the Israelite **separated it, it stands in the possession of the priest.**

Perek **I**
Daf **12** Amud **a**

מתני׳ אֵין פּוֹדִין לֹא בָּעֵגֶל וְלֹא בַּחַיָּה, לֹא בַּשְּׁחוּטָה וְלֹא בַּטְּרֵיפָה, וְלֹא בַּכִּלְאַיִם וְלֹא בַּכּוֹי. וְרַבִּי אֱלִיעֶזֶר מַתִּיר בַּכִּלְאַיִם – מִפְּנֵי שֶׁהוּא שֶׂה, וְאוֹסֵר בַּכּוֹי – מִפְּנֵי שֶׁהוּא סָפֵק. נָתָנוֹ לְכֹהֵן – אֵין הַכֹּהֵן רַשַּׁאי לְקַיְּימוֹ עַד שֶׁיְּפָרִישׁ שֶׂה תַּחְתָּיו.

MISHNA **One may not redeem** a firstborn donkey, **neither with a calf,**[H] **nor with an undomesticated animal, nor with a slaughtered** animal, **nor with a *tereifa*, nor with a hybrid** of a sheep and a goat,[B] **nor with a *koy*,**[B] which is an animal with regard to which it is uncertain whether it is domesticated or undomesticated. **And Rabbi Eliezer deems it permitted** to redeem a firstborn donkey **with a hybrid** of a sheep and a goat, **because it is a lamb,** i.e., that hybrid has the status of a lamb, **but prohibits** redeeming it **with a *koy*, because its** status is **uncertain.** If one **gave** the firstborn donkey **to a priest,**[H] **the priest may not keep it unless** he first **designates a lamb in its stead** for redemption.

גמ׳ מַתְנִיתִין מַנִּי? בֶּן בַּג בַּג הִיא. דְּתַנְיָא, בֶּן בַּג בַּג אוֹמֵר: נֶאֱמַר כָּאן ״שֶׂה״ וְנֶאֱמַר לְהַלָּן ״שֶׂה״, מַה לְּהַלָּן פָּרָט לְכָל הַשֵּׁמוֹת הַלָּלוּ, אַף כָּאן – פָּרָט לְכָל הַשֵּׁמוֹת הַלָּלוּ.

GEMARA **Whose** opinion is expressed in the first clause of **the mishna? It is** the opinion of **ben Bag Bag,**[P] **as it is taught** in a *baraita* that **ben Bag Bag says: It is stated here,** with regard to the redemption of a firstborn donkey: "And you shall redeem a firstborn donkey with **a lamb"** (Exodus 13:13), **and it is stated there,** with regard to the Paschal offering: "In the tenth day of this month they shall take to them every man **a lamb"** (Exodus 12:3). By inference, **just as there,** with regard to the Paschal offering, the Torah **excludes all of these names,**[N] i.e., all of these types of animals listed in the mishna, from being fit for sacrifice as a Paschal offering, **so too here,** with regard to the redemption of a firstborn donkey, the Torah **excludes all of these names.**

HALAKHA

One may not redeem a firstborn donkey neither with a calf, etc. – אֵין פּוֹדִין לֹא בָּעֵגֶל וכו׳: Unless one is redeeming a firstborn donkey at its value (*Taz*), he may not redeem it with a calf, an undomesticated animal, a slaughtered lamb, a *tereifa*, a hybrid, or a *koy*. The reason for this is that the verse states: "You shall redeem with a lamb [*seh*]" (Exodus 13:13, 34:20), and only live lambs and goats are included in the term: *Seh*, in accordance with the mishna (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:8; *Shulḥan Arukh*, *Yoreh De'a* 321:2).

If one gave the firstborn donkey to a priest – נָתָנוֹ לְכֹהֵן: If one had not yet redeemed a firstborn donkey and gave it to the priest, it is forbidden for the priest to use it until it is redeemed with a lamb, and the priest takes the lamb for himself. If the priest chooses not to redeem it, he breaks the donkey's neck and buries it (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:4; *Shulḥan Arukh*, *Yoreh De'a* 321:8).

NOTES

Just as there the Torah excludes all of these names – מַה לְּהַלָּן פָּרָט לְכָל הַשֵּׁמוֹת הַלָּלוּ: The other disqualifications mentioned in the mishna apply to all offerings. These disqualifications are as follows: A previously slaughtered animal is disqualified for use as an offering, as an offering must be slaughtered for its own sake. Additionally, a *tereifa* is disqualified either because one may only bring an offering that is permitted to a Jew for consumption (see *Temura* 29a), or due to the verse: "Present it now to your governor, will he be pleased with you, or will he show favor to you?" (Malachi 1:8). Likewise, a hybrid is disqualified for use as an offering, based on a verse cited in the Gemara.

PERSONALITIES

Ben Bag Bag – בֶּן בַּג בַּג: Very little is known about this *tanna*. Only a few statements of *halakha* and *aggada* (e.g., *Avot* 5:26) have been passed down in his name. It is unknown when he lived, and even his true name is not known with certainty. Some believe that he is the *tanna* Rabbi Yoḥanan ben Bag Bag, while others maintain that there were two Sages with the name ben Bag Bag. A third opinion is that ben Bag Bag was not his real name, but an allusion to his being a convert (see *Tosafot* on *Ḥagiga* 9a).

BACKGROUND

Hybrid of a sheep and a goat – כִּלְאַיִם: The sheep, *Ovis aries* L., and the goat, *Capra aegagrus* L., are both part of the Bovidae family and the Caprinae subfamily, but they have different numbers of chromosomes: Sheep have fifty-four, whereas goats have sixty, which renders it nearly impossible to crossbreed them to produce viable offspring. Nevertheless, a number of rare instances are known where a sheep and a goat were crossbred.



Sheep-goat hybrid

***Koy* – כּוֹי:** The identity of the *koy* is subject to a dispute among *tanna'im*. Some hold that it is a hybrid of a goat and a deer or other similar undomesticated kosher animal, while others identify it as a wild sheep, which may refer to the mouflon, *Ovis musimon* L. This animal is one of the ancestors of the domesticated sheep, and is distinguished by its reddish to dark brown, short-haired coats. It lives primarily in mountainous areas. Today, this animal is found only in a few scattered locations in Europe.



Mouflon

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HALAKHA

What is the *halakha* with regard to redeeming a firstborn donkey with a *ben pekua* – מַהוּ לִפְדּוֹת בֶּן פְּקוּעָה: One may redeem a firstborn donkey with a *ben pekua*, in accordance with the opinion of Rav Ashi. The *Tur*, citing the Rosh, rules that one may not, in accordance with the opinion of Mar Zutra (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:9; *Shulḥan Arukh*, *Yoreh De'a* 321:4).

The slaughter of its mother renders the fetus permitted – שְׁחִיטַת אִמּוֹ מְטַהֲרָתוֹ: If one slaughters an animal and discovers a live fetus inside, even if it is nine months old, i.e., full term, and can live on its own, slaughter is not required in order to eat it. Rather, the slaughter of its mother permits it, in accordance with the opinion of the Rabbis (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 5:14; *Shulḥan Arukh*, *Yoreh De'a* 13:2).

אִי מַה לְּהַלָּן זָכָר תָּמִים וּבֶן שָׁנָה, אַף כָּאן – זָכָר תָּמִים וּבֶן שָׁנָה! תַּלְמוּד לוֹמַר: ״תִּפְדֶּה״ ״תִּפְדֶּה״ – רִיבָּה.

The Gemara challenges: **If** this *halakha* is derived from the Paschal offering, then perhaps **just as there,** the Paschal offering must be a lamb that is **male, unblemished, and in its** first **year** (Exodus 12:5), **so too here,** the lamb must be **male, unblemished, and in its** first **year.** The Gemara explains that **the verse states: "You shall redeem"** (Exodus 13:13), and: **"You shall redeem"** (Exodus 34:20). This repetition serves to **include** female lambs, blemished lambs, and lambs that are beyond their first year.

אִי ״תִּפְדֶּה״ ״תִּפְדֶּה״ רִיבָּה, אֲפִילּוּ כָּל הָנֵי נַמִי! אִם כֵּן, ״שֶׂה״ ״שֶׂה״ מַאי אַהֲנֵי לֵיהּ?

The Gemara asks: **If** the repetition of the terms "**you shall redeem,**" "**you shall redeem,**" serves to **include,** then **even all of these** types of animals that are listed in the mishna should be included. The Gemara answers: **If so, what purpose does** the verbal analogy of "**lamb,**" "**lamb,**" between the firstborn donkey and the Paschal offering **serve?**

אִיבַּעְיָא לְהוּ: מַהוּ לִפְדּוֹת בֶּן פְּקוּעָה? אַלִּיבָּא דְּרַבִּי מֵאִיר לָא תִּיבָּעֵי לָךְ, דְּכֵיוָן דְּאָמַר רַבִּי מֵאִיר: בֶּן פְּקוּעָה טָעוּן שְׁחִיטָה – שֶׂה מְעַלְיָא הוּא. אֶלָּא כִּי תִּבָּעֵי לָךְ – אַלִּיבָּא דְּרַבָּנַן, דְּאָמְרִי: שְׁחִיטַת אִמּוֹ מְטַהֲרָתוֹ;

§ **A dilemma was raised before** the Sages: **What is** the *halakha* **with regard to redeeming** a firstborn donkey **with** a lamb **that was removed** alive **from its mother's womb after the mother was ritually slaughtered** [*ben pekua*]?[HN] The Gemara explains the question: **According to** the opinion **of Rabbi Meir you should not raise the dilemma, as since Rabbi Meir says** that **a *ben pekua* requires** ritual **slaughter, it is** considered **a full-fledged lamb. Rather, you should raise the dilemma according to** the opinion **of the Rabbis, who say** that **the slaughter of its mother renders** the fetus **permitted**[H] for consumption, as it is considered part of the mother, which was already slaughtered.

כְּבִישְׁרָא בְּדִיקוּלָא דָּמֵי, אוֹ דִלְמָא: כֵּיוָן דְּהָשְׁתָּא מִיהָא רָהֵיט וְאָזֵיל, ״שֶׂה״ קָרֵינָא בֵּיהּ?

Is it considered **like meat** that is placed **in a pot,** i.e., as if it had been slaughtered, in which case it is included in the prohibition against redeeming a firstborn donkey with a slaughtered animal? **Or perhaps since now, in any event, it runs along, we call it a lamb.**

מָר זוּטְרָא אָמַר: אֵין פּוֹדִין, וְרַב אַשִׁי אָמַר: פּוֹדִין.

The Gemara cites a dispute with regard to this issue: **Mar Zutra said** that **one may not redeem** a firstborn donkey with a *ben pekua*, **and Rav Ashi said** that **one may redeem** with it.

אָמַר לֵיהּ רַב אַשִׁי לְמָר זוּטְרָא: מַאי דַּעְתֵּיךְ – דְּיָלְפַתְּ מִפֶּסַח; אִי מַה לְּהַלָּן זָכָר תָּמִים וּבֶן שָׁנָה – אַף כָּאן זָכָר תָּמִים וּבֶן שָׁנָה! תַּלְמוּד לוֹמַר: ״תִּפְדֶּה״ ״תִּפְדֶּה״ רִיבָּה.

Rav Ashi said to Mar Zutra: What is the reason for **your opinion?** Is it **because you derive** the *halakhot* of redeeming a firstborn donkey **from the Paschal offering,**[N] and a *ben pekua* is unfit for sacrifice as a Paschal offering? **If** so, **just as there,** with regard to the Paschal offering, it must be **male, unblemished, and in its** first **year, so too here,** the lamb must be **male, unblemished, and in its** first **year.** Mar Zutra responded: The repetition of the terms "**you shall redeem,**" "**you shall redeem,**" **included** a lamb that is not male, unblemished, or in its first year.

אִי ״תִּפְדֶּה״ ״תִּפְדֶּה״ רִיבָּה, אֲפִילּוּ בֶּן פְּקוּעָה נַמִי! אִם כֵּן, ״שֶׂה״ ״שֶׂה״ מַאי אַהֲנֵי לֵיהּ?

Rav Ashi said to him: **If** the repetition of the terms "**you shall redeem,**" "**you shall redeem,**" **included** additional types of lambs, **even a *ben pekua*** is included. Mar Zutra responded: **If so, what purpose does** the verbal analogy of "**lamb,**" "**lamb,**" between the firstborn donkey and the Paschal offering **serve?** It must be that the term "you shall redeem" does not serve to include those animals.

NOTES

Ben pekua – בֶּן פְּקוּעָה: Everyone agrees that if the fetus was one whose months of gestation were not completed, i.e., it was born prematurely, then it is included in the category of: "Of an animal [*bivhema*], you may eat" (Deuteronomy 14:6), which the Sages interpreted to include a fetus, as it is considered an integral part of the mother. Therefore, slaughtering the mother renders the consumption of the offspring permitted, even if the offspring is still alive. In addition, the Sages ruled that such a *ben pekua* is not deemed impure as an unslaughtered animal carcass, despite the fact that an animal that is not properly slaughtered generally does have that status. Rabbi Meir and the Rabbis disagree with regard to the case of a fetus whose months of gestation were completed. Rabbi Meir holds that it is considered a separate animal and requires its own slaughter to permit it for consumption, and that if it is not slaughtered it is deemed impure as an unslaughtered animal carcass when it dies. The Rabbis hold that until it is born it is still considered part of the mother, and is therefore rendered permitted for consumption with the mother's slaughter.

What is the reason for your opinion, is it because you derive from the Paschal offering – מַאי דַּעְתֵּיךְ דְּיָלְפַתְּ מִפֶּסַח: A *ben pekua* is disqualified from being brought as an offering because its halakhic status is no different than an animal born via caesarean section, which is also disqualified (see Rashi).

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אִיבַּעְיָא לְהוּ: מַהוּ לִפְדּוֹת בִּנְדְמֶה? אַלִּיבָּא דְּרַבִּי אֱלִיעֶזֶר לָא תֵּיבָּעֵי לָךְ, דְּשַׁתָּא בִּכְלְאַיִם פְּרִקִינַן, בִּנְדְמֶה מִיבָּעֵיָא?

§ **A dilemma was raised before** the Sages: **What is** the *halakha* **with regard to redeeming** a firstborn donkey **with** a lamb whose parents are both sheep but it **resembles** another animal[H] such as a goat? The Gemara clarifies: **According to** the opinion **of Rabbi Eliezer in the mishna here, do not raise the dilemma,** as **now** that it is established that he holds that **one may redeem with a hybrid** of a goat and a sheep, **with regard to** a lamb that **resembles** a goat but is not from a hybrid, **is** it **necessary** to state that one may redeem with it?

כִּי תֵּיבָּעֵי לָךְ – אַלִּיבָּא דְּרַבָּנַן; בִּכְלְאַיִם הוּא דְּלָא פָּרְקִינַן, בִּנְדְמֶה – פָּרְקִינַן. אוֹ דִלְמָא לָא שָׁנָא?

Rather, **when should you raise the dilemma?** Raise it **according to** the opinion **of the Rabbis,** who hold that one may not redeem a firstborn donkey with a hybrid of a sheep and a goat. Do they hold that **one does not redeem with a hybrid** of a goat and a sheep, but **one does redeem with** a lamb that **resembles** another animal? **Or perhaps** there is **no difference** between them?

תָּא שְׁמַע: פָּרָה שֶׁיָּלְדָה מִין עֵז – אֵין פּוֹדִין; הָא רָחֵל שֶׁיָּלְדָה מִין עֵז – פּוֹדִין. מַנִּי? אִילֵימָא רַבִּי אֱלִיעֶזֶר – הָא בִּכְלְאַיִם נַמִּי פָּרְקִינַן! אֶלָּא לָאו רַבָּנַן הִיא!

The Gemara suggests: **Come** and **hear** a resolution from a *baraita*: With regard to **a cow that gave birth to a goat of sorts, one may not redeem** a firstborn donkey with the goat of sorts. The Gemara infers: **But** it can be inferred that with regard to **a ewe that gave birth to a goat of sorts, one may redeem** with it. **Whose** opinion is expressed in the *baraita*? **If we say** that it is the opinion of **Rabbi Eliezer,** he holds that **one may redeem even with a hybrid** of a sheep and goat, and this ruling would be unnecessary. **Rather, is it not** the opinion of **the Rabbis,** indicating that they hold that one may redeem a firstborn donkey with a lamb that resembles another animal?

לָא, לְעוֹלָם רַבִּי אֱלִיעֶזֶר; הִיא גּוּפָהּ קָא מַשְׁמַע לָן – דְּפָרָה שֶׁיָּלְדָה מִין עֵז אֵין פּוֹדִין; לָא תֵּימָא זִיל אַבַּתְרֵיהּ דִּידֵיהּ, וְהַאי – עֵז מְעַלְיָא הוּא, אֶלָּא זִיל בָּתַר אִימֵּיהּ, וְהַאי – עֵגֶל הוּא.

The Gemara responds: **No, actually** the *baraita* is in accordance with the opinion of **Rabbi Eliezer,** and it **teaches us the** *halakha* **itself that one may not redeem** using the offspring in a case **where a cow gave birth to a goat of sorts,** i.e., where the offspring has the appearance of a goat. This is necessary so that you **do not say** that the *halakha* should **follow** the appearance of the offspring **itself, and** therefore **this** offspring **is a full-fledged goat** and should be suitable for redeeming a firstborn donkey. **Rather, follow its mother, and this** offspring **is** treated as **a calf,** which is not suitable for redeeming a firstborn donkey.

תָּא שְׁמַע, דְּתָנֵי רַבָּה בַּר שְׁמוּאֵל: אֵיזֶהוּ כִּלְאַיִם – רָחֵל שֶׁיָּלְדָה מִין עֵז וְאָבִיו שֶׂה. אָבִיו שֶׂה כִּלְאַיִם הוּא? נִדְמֶה הוּא! אֶלָּא: אֵיזֶהוּ דָּמֵי לְכִלְאַיִם דְּשַׁוְיוּהּ רַבָּנַן כִּי כִּלְאַיִם – רָחֵל שֶׁיָּלְדָה מִין עֵז וְאָבִיו שֶׂה.

The Gemara suggests: **Come** and **hear** a resolution from a *baraita* **that Rabba bar Shmuel teaches: What is** considered an animal that is **a hybrid?** It is **a ewe that gave birth to a goat of sorts and the father of** the offspring **is a lamb.** The Gemara analyzes the *baraita*: If **its father** is **a lamb, is** the offspring **a hybrid? It is** an animal that **resembles** an animal of another type. **Rather,** the *baraita* means: **What** animal **is similar to a hybrid,** and **the Rabbis rendered it tantamount to a hybrid,** which is unsuitable for redeeming? It is **a ewe that gave birth to a goat of sorts and its father is a lamb.**

לְמַאי? אִי לְקָדָשִׁים, מֵהֵיכָא דְּמַמְעֵט כִּלְאַיִם – מֵהָתָם מְמַעֵט נִדְמֶה, דְּתַנְיָא: ״שׁוֹר אוֹ כֶשֶׂב״ – פָּרַט לִכְלְאַיִם, ״אוֹ עֵז״ – פָּרַט לִנְדְמֶה!

Now, **to what** *halakha* is this *baraita* referring? **If** it is referring **to sacrificial** animals, i.e., to the fact that such an animal is unfit for sacrifice as an offering, why does the *baraita* derive its status from that of a hybrid? **From** the same verse **where** one derives that the Torah **excludes a hybrid** as an offering, one can derive that **it** also **excludes** an animal that **resembles** an animal of another type. **As it is taught** in a *baraita* that in the verse: "When a bull, or a lamb, or a goat, is brought forth… it may be accepted as an offering… to the Lord" (Leviticus 22:27), the words "**a bull, or a lamb**" are interpreted as **excluding a hybrid,** and the words "**or a goat**" are interpreted as **excluding** an animal that **resembles** an animal of another type.

אִי לִבְכוֹר – ״אַךְ בְּכוֹר שׁוֹר״ אָמַר רַחֲמָנָא, עַד שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר!

If the *baraita* is referring **to** the *halakha* of **a firstborn** and teaches that an animal that resembles an animal of another type does not have firstborn status, this is derived from another verse, as **the Merciful One states: "But the firstborn of an ox"** (Numbers 18:17), which indicates that there is firstborn status **only if it is an ox and its firstborn is an ox,** but not when the offspring resembles an animal of another type.

HALAKHA

What is the *halakha* with regard to redeeming a firstborn donkey with a lamb but it resembles another animal – מַהוּ לִפְדּוֹת בִּנְדְמֶה: One may not redeem a firstborn donkey with a lamb that resembles an animal of another species. If one did so, the donkey is considered to have been redeemed, as the dilemma with regard to this case was left unresolved. Some say that one should redeem the donkey again with another lamb (*Tur*, citing Rosh), and the status of that lamb is similar to that of a lamb used to redeem a donkey whose status as a firstborn is uncertain, which one is not required to give to a priest (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:9; *Shulḥan Arukh*, *Yoreh De'a* 321:3).

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אֶלָּא לְמַעֵשֵׂר – ״תַּחַת״ ״תַּחַת״ מִקָּדָשִׁים גְּמַר! אֶלָּא לְפֶטֶר חֲמוֹר.

Rather, perhaps it is referring **to** the mitzva of the animal **tithe** and teaches that an animal that resembles an animal of another type is not tithed with the other animals. This ruling is also unnecessary, as it is **derived** via a verbal analogy **from** the word: **"Under"** (Leviticus 22:27), which is stated with regard to **sacrificial** animals, and the word: **"Under"** (Leviticus 27:32), which is stated in the context of animal tithe. **Rather,** the *baraita* must be referring **to** the lamb that is used to redeem **a firstborn donkey,** and it teaches that a lamb that resembles an animal of another type is unfit for use as redemption.

לָא, לְעוֹלָם לְמַעֵשֵׂר, וּכְגוֹן שֶׁיֵּשׁ בּוֹ מִקְצָת סִימָנִין; מַהוּ דְּתֵימָא: הַעֲבָרָה הַעֲבָרָה מִבְּכוֹר גָּמַר,

The Gemara responds: **No, actually** the *baraita* is referring **to** the *halakha* of animal **tithe** in a case **where** the animal that resembles an animal of another type **has some characteristics** of the mother. It was necessary for the *baraita* to teach that such an animal is not included in the animal tithe, **lest you say** that it is **derived** via a verbal analogy from the term: **Passing,** stated with regard to the animal tithe (see Leviticus 27:32), and the term: **Passing,** stated with regard to **a firstborn** animal (see Exodus 13:12), that just as an animal with some characteristics of the mother does have firstborn status (see 16b), so too, such an animal should be included in the obligation of animal tithe.

קָא מַשְׁמַע לָן: ״תַּחַת״ ״תַּחַת״ מִקָּדָשִׁים גְּמַר.

Therefore, the *tanna* **teaches us** that it is **derived** via a verbal analogy **from** the word **"under"** that is stated with regard to **sacrificial** animals and the word **"under"** that is stated in the context of animal tithe, that an animal with some characteristics of the mother is unfit for animal tithe. The status of such a lamb with regard to redeeming a firstborn donkey may not be proven from the *baraita*.

אִיבַּעְיָא לְהוּ: מַהוּ לְפְדּוֹת בִּפְסוּלֵי הַמּוּקְדָּשִׁין?

§ **A dilemma was raised before** the Sages: **What is** the *halakha* **with regard to redeeming** a firstborn donkey **with disqualified consecrated** animals[H] that were redeemed? It is forbidden to shear or work such animals. Does the principle of: A prohibition does not take effect where another prohibition already exists, apply here?

אַלִּיבָּא דְּרַבִּי שִׁמְעוֹן לָא תִּיבָּעֵי לָךְ, כֵּיוָן דְּאָמַר מוּתָּר בַּהֲנָאָה – חוּלִּין הוּא. כִּי תִּיבָּעֵי לָךְ – אַלִּיבָּא דְּרַבִּי יְהוּדָה דְּאָמַר אָסוּר בַּהֲנָאָה,

The Gemara clarifies: **According to** the opinion **of Rabbi Shimon, you should not raise the dilemma. Since he says** that it is **permitted to** derive **benefit** from a firstborn donkey, its status **is non-sacred,** and no forbidden status is transferred to the redemption lamb. **When should you raise the dilemma?** Raise it **according to** the opinion **of Rabbi Yehuda, who says** that it is **prohibited to** derive **benefit** from a firstborn donkey.

מַאי? כֵּיוָן דְּאָסוּר בַּהֲנָאָה – אֵין אִיסּוּר חָל עַל אִיסּוּר,

What is the *halakha*? It could be reasoned that **since** it is **prohibited to** derive **benefit from** the firstborn donkey, when he redeems it with a lamb, the forbidden status of the donkey must be able to be transferred to the lamb, which cannot occur in the case of a disqualified consecrated lamb, as **a prohibition does not take effect** where another **prohibition** already exists.[N]

אוֹ דִלְמָא: כֵּיוָן דְּלָא תָּפֵיס פִּדְיוֹנוֹ – אַפְקוּעֵי אִיסּוּרָא בְּעָלְמָא הוּא?

Or perhaps it could be reasoned that **since** the actual prohibition against deriving benefit from the donkey **is not transferred to its** object of **redemption,** i.e., the lamb, as deriving benefit from the lamb is permitted, the act of redemption should be seen as **merely an abrogation of** the donkey's **forbidden status.** The forbidden status is not transferred to the lamb, and consequently the principle that a prohibition does not take effect where another prohibition already exists does not apply.

אָמַר רַב מָרִי בְּרֵיהּ דְּרַב כָּהֲנָא: מִי זוּטָר מַאי דִּכְתִיב בְּהוּ ״כַּצְבִי וְכָאַיָּל״? מָה צְבִי וְאַיָּל אֵין פּוֹדִין, אַף פְּסוּלֵי הַמּוּקְדָּשִׁין אֵין פּוֹדִין!

Rav Mari, son of Rav Kahana, says: Is that which is written with regard to disqualified consecrated animals **insignificant?** The Torah states that their status is: **"Like the gazelle and like the hart"** (Deuteronomy 12:15), indicating that **just as one may not redeem** a firstborn donkey with **a gazelle or a hart, so too, one may not redeem** a firstborn donkey with **disqualified consecrated** animals.

הָשְׁתָּא דְּאָתֵית לְהָכִי,

The Gemara comments: **Now that you have arrived at this** explanation,

HALAKHA

What is the *halakha* with regard to redeeming a firstborn donkey with disqualified consecrated animals – **מַהוּ לְפְדּוֹת בִּפְסוּלֵי הַמּוּקְדָּשִׁין:** One may not redeem a firstborn donkey using disqualified consecrated animals, as it states with regard to them: "Like the gazelle and like the hart" (Deuteronomy 12:15). Just as the gazelle and the hart may not be used for redemption, so too, disqualified consecrated animals may not be used for redemption, in accordance with the conclusion of the Gemara (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:9).

NOTES

Since it is prohibited to derive benefit from it, a prohibition does not take effect where another prohibition already exists – **כֵּיוָן דְּאָסוּר בַּהֲנָאָה אֵין אִיסּוּר חָל עַל אִיסּוּר:** Although according to all opinions it is permitted to derive benefit from the animal used to redeem the firstborn donkey, perhaps in order to effect the redemption it is necessary to use an animal to which the forbidden status could potentially be transferred (Rabbi Elḥanan Wasserman; see also *Ḥiddushei Batra*). Others explain that perhaps the forbidden status of the firstborn donkey does get transferred to the lamb, as there is no other manner for it to be removed from the donkey, but it is immediately afterward removed from the lamb as well. If so, in a case where the forbidden status cannot be transferred, the redemption will not take effect (*Reshit Bikkurim*).

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לְרַבִּי שִׁמְעוֹן נַמִּי, ״צְבִי וְאַיָּל״ כְּתִיב בְּהוּ.

according to Rabbi Shimon as well, perhaps one cannot redeem a firstborn donkey with disqualified consecrated animals, as **it is written with regard to them** that they are to be treated: "Like **the gazelle and** like **the hart**" (Deuteronomy 12:15). Since a gazelle and a hart cannot be used for redemption, so too, disqualified consecrated animals cannot be used for redemption.

אִיבַּעְיָא לְהוּ: מַהוּ לִפְדּוֹת בִּבְהֵמַת שְׁבִיעִית?

§ **A dilemma was raised before** the Sages: **What is** the *halakha* **with regard to redeeming** a firstborn donkey **with an animal** that was purchased with produce **of the Sabbatical** Year,[H] which caused the sanctity of the produce to be transferred to the animal?

וַדַּאי – לָא תִּיבָּעֵי לָךְ, לַאֲכִילָה אָמַר רַחֲמָנָא, וְלֹא לִסְחוֹרָה; כִּי תִּיבָּעֵי לָךְ – סָפֵק.

The Gemara clarifies the question: With regard to redeeming a donkey that has **definite** firstborn status with an animal that was purchased with produce of the Sabbatical Year, **you should not raise the dilemma,** as one certainly may not redeem it in this manner, since the owner acquires his firstborn donkey in exchange for the animal that he gives to the priest, and this is prohibited with regard to such an animal. This is because **the Merciful One states** with regard to the Sabbatical Year: "The rest of the land shall be for you for consumption" (Leviticus 25:6), indicating that the produce may be used **for consumption but not for commerce.** Rather, **when should you raise the dilemma?** Raise it in the case of a donkey with **uncertain** firstborn status.

וְאַלִּיבָּא דְּרַבִּי שִׁמְעוֹן לָא תִּיבָּעֵי לָךְ, דְּלֵית לֵיהּ סָפֵק; כִּי תִּיבָּעֵי לָךְ – אַלִּיבָּא דְּרַבִּי יְהוּדָה,

The Gemara clarifies further: **And according to** the opinion **of Rabbi Shimon you should not raise the dilemma,**[N] **as he does not hold** that redemption is necessary in the case of a donkey with **uncertain** firstborn status. **When should you raise the dilemma?** Raise it **according to** the opinion **of Rabbi Yehuda,** who holds that in such a case the owner of the donkey must designate a lamb for its redemption in order to abrogate its forbidden status, but he is not required to give it to a priest.

מַאי? כֵּיוָן דְּמַפְרִישׁ טָלֶה וְהוּא לְעַצְמוֹ – ״לְאָכְלָה״ קָרֵינָא בֵּיהּ. אוֹ דִילְמָא: כֵּיוָן דְּכַמָּה דְּלָא מַפְקַע אִיסּוּרֵיהּ לָא מִישְׁתָּרֵי – כִּסְחוֹרָה דָּמֵי?

What is the *halakha*? Perhaps **since he designates a lamb and it is his, we call** this act of redemption **"for consumption,"** and it is not considered commerce if he does not give it to the priest in exchange for his donkey. **Or perhaps, since as long as** the lamb **does not abrogate the forbidden status of** the firstborn donkey **it is not permitted** to derive benefit from the donkey, when the owner designates the lamb as the replacement of the donkey **it is tantamount to** engaging in **commerce** with it.

תָּא שְׁמַע, דְּאָמַר רַב חִסְדָּא: בְּהֶמַת שְׁבִיעִית אֵין פּוֹדִין בָּהּ אֶת הַוַּדַּאי, אֲבָל פּוֹדִין בָּהּ אֶת הַסָּפֵק.

The Gemara suggests: **Come** and **hear** a resolution from that **which Rav Ḥisda says: One may not redeem** a donkey with **definite** firstborn status **with an animal** that was purchased with produce **of the Sabbatical** Year, **but one may redeem** a donkey with **uncertain** firstborn status **with it.**

וְאָמַר רַב חִסְדָּא: בְּהֶמַת שְׁבִיעִית – פְּטוּרָה מִן הַבְּכוֹרָה וְחַיֶּיבֶת בַּמַּתָּנוֹת;

And Rav Ḥisda says an additional ruling: **An animal** that was purchased with produce **of the Sabbatical** Year is **exempt from** its offspring being counted **a firstborn,**[H] **but is obligated to** have **gifts**[HB] of the priesthood taken from it. These are the gifts to which members of the priesthood are entitled when a non-sacred animal is slaughtered,

HALAKHA

What is the *halakha* with regard to redeeming a firstborn donkey with an animal of the Sabbatical Year – **מַהוּ לִפְדּוֹת בִּבְהֵמַת שְׁבִיעִית:** One may not redeem a definite firstborn donkey with a lamb that is purchased with money received in exchange for produce of the Sabbatical Year, but one may use such a lamb to redeem a donkey of uncertain firstborn status, in accordance with the statement of Rav Ḥisda (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:11).

An animal of the Sabbatical Year is exempt from its offspring being counted a firstborn – **בְּהֶמַת שְׁבִיעִית פְּטוּרָה מִן הַבְּכוֹרָה:** In the case of one who purchases an animal using produce of the Sabbatical Year, the animal is exempt from its offspring being accounted firstborn status. The reason for this is that it is prohibited to engage in commerce with produce of the Sabbatical Year, since it is written that the produce should be "for consumption," indicating that it may not be used for commerce. If this animal was subject to its offspring being accounted firstborn status, the firstborn offspring could not have the status of produce of the Sabbatical Year. Therefore, the owner would profit from it. This explanation is not in accordance with that of the Gemara here, which says: "For consumption," but not for burning (Ra'avad). It appears that the Rambam had a different version of the text (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:9, and see *Kesef Mishne* and Mahari Kurkus there).

But is obligated to have gifts – **וְחַיֶּיבֶת בַּמַּתָּנוֹת:** One who purchases an animal with produce of the Sabbatical Year must give the priest the foreleg, the jaw, and the maw (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 9:8).

BACKGROUND

Gifts of the priesthood – **מַתָּנוֹת:** One is required to give a priest the foreleg, jaw, and maw of any non-consecrated animal that is slaughtered for consumption (see Deuteronomy 18:3). These gifts do not possess any sanctity, and once they are given to a priest he may give or sell them to a non-priest.

NOTES

And according to the opinion of Rabbi Shimon you should not raise the dilemma, etc. – **וְאַלִּיבָּא דְּרַבִּי שִׁמְעוֹן לָא תִּיבָּעֵי לָךְ וכו':** Rabbi Shimon holds that it is permitted to derive benefit from a firstborn donkey. Since in a situation of uncertainty the owner is not required to give the priest a lamb at all, as the burden of proof rests upon the claimant, it is unnecessary to designate a lamb.

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BACKGROUND

***Ḥalla* – חַלָּה:** The Torah commands one to give a portion of dough that is used for baking to the priests (see Numbers 15:20). This portion is called *ḥalla* and is governed by all the *halakhot* pertaining to *teruma*, the portion of produce designated for the priest. Although the Torah does not specify a measure for *ḥalla*, the Sages required a private individual to separate one twenty-fourth of his dough, and a commercial baker to separate one forty-eighth. *Ḥalla* must be taken from dough made from any of the five species of grain, provided that the quantity of flour is at least a tenth of an ephah in volume. If *ḥalla* is not taken, the dough is treated as untithed produce and may not be eaten.

Today, since all Jews are assumed to be ritually impure, *ḥalla*, like ritually impure *teruma*, must be burned. Accordingly, those measures no longer apply. Instead, only a small portion of the dough is separated and burned, and the remainder of the dough may be used. Despite the fact that *ḥalla* is no longer given to the priest, one nevertheless recites a blessing prior to fulfilling the mitzva. In addition, *ḥalla* is considered one of the mitzvot practiced particularly by women. The *halakhot* governing this mitzva are discussed comprehensively in tractate *Ḥalla*.

פְּטוּרָה מִן הַבְּכוֹרָה – ״לְאָכְלָה״ אָמַר רַחֲמָנָא וְלֹא לִשְׁרִיפָה, וְחַיָּיבֶת בַּמַּתָּנוֹת – דִּ״לְאָכְלָה״ קָרִינָא בָּהּ.

The Gemara explains: It is **exempt from** its offspring being counted **a firstborn** because **the Merciful One states** with regard to produce of the Sabbatical Year that it should be used **"for consumption," but not for burning,** and portions of a kosher firstborn animal are burned on the altar. **And it is obligated to** have **gifts** of the priesthood taken from it, **because we call** this case **"for consumption,"** as the priest eats them.

מֵיתִיבִי: הָאוֹכֵל מֵעִיסַּת שְׁבִיעִית עַד שֶׁלֹּא הוּרְמָה חַלָּתָהּ – חַיָּיב מִיתָה.

The Gemara **raises an objection** from a mishna (*Shevi'it* 9:9): **One who eats from dough of** produce of the **Sabbatical** Year[H] **before its *ḥalla*,**[B] i.e., the portion of the dough given to the priests, **has been separated, is liable** to receive the punishment of **death** at the hand of Heaven, just like one who consumes any dough before *ḥalla* is separated.

וְאַמַּאי? כֵּיוָן דְּאִילּוּ מִטַּמְּיָא בַּת שְׂרִיפָה הִיא – ״לְאָכְלָה״ אָמַר רַחֲמָנָא וְלֹא לִשְׂרִיפָה!

But according to the opinion of Rav Ḥisda, **why** is dough of produce of the Sabbatical Year subject to the obligation of separating *ḥalla*? It should not be subject to this mitzva, **since if** the dough **becomes ritually impure** after being separated as *ḥalla*, **it is subject to burning,** and **the Merciful One states: "For consumption," but not for burning.** This is similar to Rav Ḥisda's claim that a firstborn animal that was purchased with produce of the Sabbatical Year is not subject to the obligations of firstborn status.

שָׁאנֵי הָכָא דִּכְתִיב: ״לְדֹרֹתֵיכֶם״.

The Gemara answers: **Here,** with regard to *ḥalla*, **it is different, as it is written:** "Of the first of your dough you shall give to the Lord a portion for a gift **throughout your generations**" (Numbers 15:21), which indicates that all dough, including that of produce of the Sabbatical Year, is subject to the mitzva of *ḥalla*.

תַּנְיָא נַמִּי הָכִי: מִנַּיִן לָאוֹכֵל מֵעִיסַּת שְׁבִיעִית עַד שֶׁלֹּא הוּרְמָה חַלָּתָהּ שֶׁחַיָּיב מִיתָה – שֶׁנֶּאֱמַר: ״לְדֹרֹתֵיכֶם״.

This is also taught in a *baraita*: **From where** is it derived **that one who consumes dough of** produce of the **Sabbatical** Year **before its *ḥalla* was separated is liable** to receive the punishment of **death** at the hand of Heaven? It is derived from a verse, **as it is stated:** "**Throughout your generations,**" which indicates the inclusion of Sabbatical Years as well. By contrast, this formulation is not used with regard to a firstborn animal. Therefore, since portions of a kosher firstborn animal are burned on the altar, an animal that was purchased with produce of the Sabbatical Year is exempt from its offspring being counted a firstborn.

וְלִגְמַר מִינַּהּ! הָתָם – עִיקָּר לַאֲכִילָה, הָכָא – עִיקָּר לִשְׂרִיפָה.

The Gemara challenges: **And let** Rav Ḥisda **derive from** the *halakha* of *ḥalla* that such an animal is subject to its offspring being counted a firstborn, and that the interpretation of: "For consumption" but not for burning, is not applied. The Gemara explains: **There,** with regard to *ḥalla*, the **primary** purpose of the dough is **for consumption,** and it is burned only if it becomes impure. **Here,** with regard to a firstborn animal, the **primary** purpose of the portions that are consumed on the altar is **for burning.**

״נִתְּנוּ לְכֹהֵן״ כּוּ'. תָּנִינָא לְהָא דְּתָנוּ רַבָּנַן: יִשְׂרָאֵל שֶׁהָיָה לוֹ פֶּטֶר חֲמוֹר בְּתוֹךְ בֵּיתוֹ, וְאָמַר לוֹ הַכֹּהֵן: ״תְּנֵהוּ לִי, וַאֲנִי אֶפְדֶּהוּ״ – הֲרֵי זֶה לֹא יִתְּנוּ לוֹ, אֶלָּא אִם כֵּן פָּדָאוֹ בְּפָנָיו.

§ The mishna teaches: If the owner **gave** the firstborn donkey itself **to a priest,** the priest may keep it only after he designates a lamb in its stead for redemption. This language indicates that there is concern lest the priest will be negligent in redeeming it. The Gemara comments: **We learn** in the mishna **that which the Sages taught** explicitly in a *baraita*: In the case of **an Israelite who had a firstborn donkey**[H] **in his house and the priest said to him: Give it to me and I will redeem it, he may not give** the donkey **to** the priest **unless** the priest **redeems it in his presence.**

HALAKHA

Dough of the Sabbatical Year – עִיסַּת שְׁבִיעִית: Dough of the Sabbatical Year is subject to the obligation to separate *ḥalla* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 6:4).

An Israelite who had a firstborn donkey, etc. – יִשְׂרָאֵל שֶׁהָיָה לוֹ פֶּטֶר חֲמוֹר וכו': It is forbidden for a Jew to give a firstborn donkey to a priest unless the priest redeems the donkey in his presence or breaks its neck in his presence. The reason is that the priests are suspect with regard to using firstborn donkeys prior to their being redeemed, in accordance with the *baraita* and the statement of Rav Naḥman (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:4; *Shulḥan Arukh*, *Yoreh De'a* 321:8).

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אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: זֹאת אוֹמֶרֶת – נֶחְשְׁדוּ הַכֹּהֲנִים עַל פִּטְרֵי חֲמוֹרִים. פְּשִׁיטָא! מַהוּ דְּתֵימָא: הָנֵי מִילֵּי – הֵיכָא דְּמַחְזַק לָן דְּמִיקְּרֵי, אֲבָל בִּסְתָמָא – לָא, קָא מַשְׁמַע לָן דְּמוֹרָה בָּהּ הֶיתֵּירָא.

Rav Naḥman says that **Rabba bar Avuh says: That is to say** that **priests are suspect with regard to** using **firstborn donkeys** without redemption. The Gemara asks: Isn't it **obvious?** That is exactly what the *baraita* states. The Gemara explains: Rav Naḥman's statement is necessary **lest you say** that **this statement** of the *baraita* applies only in a case **where we have a presumption that it** occasionally **happens** that this priest uses a firstborn donkey without redeeming it first, **but in** the case of **an ordinary** priest, there is **no** concern for this. Therefore, Rav Naḥman **teaches us that** this concern is relevant to every priest, **as** a priest is suspected of **granting** himself **permission** to use the firstborn donkey without first redeeming it with a lamb, as in any case the lamb will remain his.

מתני׳ הַמַּפְרִישׁ פִּדְיוֹן פֶּטֶר חֲמוֹר וָמֵת – רַבִּי אֱלִיעֶזֶר אוֹמֵר: חַיָּבִין בְּאַחֲרָיוּתוֹ, כְּחָמֵשׁ סְלָעִים שֶׁל בֵּן. וַחֲכָמִים אוֹמְרִים: אֵין חַיָּבִין בְּאַחֲרָיוּתוֹ, כִּפְדְיוֹן מַעֲשֵׂר שֵׁנִי.

MISHNA In the case of **one who designates** a lamb for the **redemption of a firstborn donkey and** the lamb **dies,**[H] **Rabbi Eliezer says:** The owner **bears** financial **responsibility** and must give the priest another lamb in its place. This is **like** the case of the **five *sela*** for redemption **of** a firstborn **son,** where if the money is lost before one gives it to the priest, he must give the priest another five *sela*. **And the Rabbis say:** The owner **does not bear** financial **responsibility.** This is **like** the case of money designated for **redemption of second-tithe** produce, where once the owner designates the money for redemption, the produce is desanctified.

הֵעִיד רַבִּי יְהוֹשֻׁעַ וְרַבִּי צָדוֹק עַל פִּדְיוֹן פֶּטֶר חֲמוֹר שֶׁמֵּת – שֶׁאֵין כָּאן לַכֹּהֵן כְּלוּם. מֵת פֶּטֶר חֲמוֹר – רַבִּי אֱלִיעֶזֶר אוֹמֵר: יִקָּבֵר, וּמוּתָּר בַּהֲנָאָתוֹ שֶׁל טָלֶה. וַחֲכָמִים אוֹמְרִים: אֵין צָרִיךְ לְהִקָּבֵר, וְטָלֶה לַכֹּהֵן.

Rabbi Yehoshua and Rabbi Tzadok testified about a lamb designated for **redemption of a firstborn donkey that died, that the priest has nothing here,** i.e., in such a case, as the firstborn donkey has already been redeemed, and the owner no longer bears financial responsibility for the dead lamb, in accordance with the opinion of the Rabbis. If after the lamb was designated, **the firstborn donkey died,**[H] **Rabbi Eliezer says:** The donkey **must be buried, and** the owner is **permitted to** derive **benefit from the lamb. And the Rabbis say:** It **does not need to be buried, and the lamb** is given **to the priest.**

גמ׳ אָמַר רַב יוֹסֵף: מַאי טַעְמָא דְּרַבִּי אֱלִיעֶזֶר? דִּכְתִיב: ״אַךְ פָּדֹה תִפְדֶּה״ וגו׳, מַה בְּכוֹר אָדָם חַיָּיב בְּאַחֲרָיוּתוֹ – אַף בְּכוֹר בְּהֵמָה טְמֵאָה חַיָּיב בְּאַחֲרָיוּתוֹ.

GEMARA **Rav Yosef says: What is the reason** for the opinion **of Rabbi Eliezer,** who holds that the owner bears financial responsibility for the lamb if it is designated and dies before the priest receives it? **As it is written: "Yet you shall redeem** the firstborn of man, and the firstborn of non-kosher animals you shall redeem" (Numbers 18:15). It is derived from the comparison between the two cases that **just as** with regard to redeeming a woman's **firstborn son,** the father **bears** financial **responsibility** to compensate for the five *sela* in the event of their loss, **so too,** with regard to redeeming **a firstborn non-kosher animal,** the owner **bears** financial **responsibility** to compensate the priest in the event **of their** loss.

אֲמַר לֵיהּ אַבַּיֵי: אִי מַה בְּכוֹר אָדָם מוּתָּר בַּהֲנָאָה, אַף בְּכוֹר בְּהֵמָה טְמֵאָה מוּתָּר! וְכִי תֵּימָא הָכִי נַמִי, וְהָתְנַן: מֵת פֶּטֶר חֲמוֹר, רַבִּי אֱלִיעֶזֶר אוֹמֵר: יִקָּבֵר; מַאי ״יִקָּבֵר״ – לָאו דְּאָסוּר בַּהֲנָאָה?

Abaye said to him: If they are compared, then **just as** deriving **benefit** from a woman's **firstborn son is permitted** if he has not yet been redeemed, **so too,** deriving benefit from **the firstborn of a non-kosher animal** should be **permitted** prior to redemption, including shearing and working it. **And if you would say** that **indeed** Rabbi Eliezer does permit deriving benefit from a firstborn donkey, that is difficult: **But didn't we learn** in the mishna that if after the lamb was designated **the firstborn donkey died, Rabbi Eliezer says: It must be buried?** Now, **what** is the reason that **it must be buried?** Is it **not because** deriving **benefit** from it **is prohibited?**

HALAKHA

One who designates a lamb for redemption of a firstborn donkey and the lamb dies – הַמַּפְרִישׁ פִּדְיוֹן פֶּטֶר חֲמוֹר וָמֵת: In the case of one who designated a lamb to redeem a firstborn donkey and the lamb died prior to being given to the priest, the owner does not bear financial responsibility for it, and he may simply give the carcass to the priest so that the priest may derive benefit from it (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:5; *Shulḥan Arukh*, *Yoreh De'a* 321:6).

The firstborn donkey died – מֵת פֶּטֶר חֲמוֹר: If the firstborn donkey died after it was redeemed, the lamb is given to the priest, and it is permitted to derive benefit from the carcass of the firstborn donkey, as it was already redeemed, in accordance with the opinion of the Rabbis. If the donkey died before it was redeemed, it is buried, because deriving benefit from it is prohibited (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:4–5; *Shulḥan Arukh*, *Yoreh De'a* 321:6, 8).

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לָא, יָקֵיר כִּבְכוֹר אָדָם. אֶלָּא אָדָם בְּכוֹר הוּא דְּבָעֵי קְבוּרָה, פָּשׁוּט לָא בָּעֵי קְבוּרָה?

Rav Yosef responded: **No, it must be buried like** a woman's **firstborn son.** There is a mitzva to bury a woman's firstborn son if he dies, and due to the comparison of the verse, the same applies to a firstborn donkey. The Gemara asks: **But** according to this answer, does **a person** who died **require burial** only if he **is a firstborn** son, while **an ordinary** person who is not a firstborn **does not require burial?** That is certainly not correct. Therefore, no such distinction should exist with regard to a donkey either.

וְעוֹד, תַּנְיָא: מוֹדֶה רַבִּי אֱלִיעֶזֶר בְּיִשְׂרָאֵל שֶׁיֵּשׁ לוֹ סְפֵק פֶּטֶר חֲמוֹר בְּתוֹךְ בֵּיתוֹ – שֶׁמַּפְרִישׁ טָלֶה עָלָיו וְהוּא שֶׁלּוֹ!

And furthermore, Rabbi Eliezer clearly holds that deriving benefit from a firstborn donkey prior to redemption is forbidden, as **it is taught** in a *baraita*: **Rabbi Eliezer concedes with regard to an Israelite who has a donkey in his house** whose status as **a firstborn** is **uncertain, that he designates a lamb for it and** the lamb **is his.** Designating a lamb in this case is necessary only to remove the prohibition against deriving benefit from the donkey.

אֶלָּא אָמַר רָבָא: אָמַר קְרָא ״אַךְ פָּדֹה תִפְדֶּה״ – לִפְדָיָיה הִקְשִׁיתִיו, וְלֹא לְדָבָר אַחֵר.

Rather, Rava says that although the verse compares the status of a firstborn donkey to that of a woman's firstborn son, this is only with regard to bearing financial responsibility for the lamb, but not with regard to deriving benefit from the donkey. This is because **the verse states: "Yet you shall redeem** [*pado tifde*] the firstborn of man, and the firstborn of non-kosher animals you shall redeem." The double verb "*pado tifde*" indicates that **I have compared it with regard to redemption, but not with regard to another matter.**

תְּנַן הָתָם: הָעֲרָכִין – בִּשְׁעָתָן, וּפִדְיוֹן הַבֵּן – אַחַר שְׁלֹשִׁים יוֹם, פִּדְיוֹן פֶּטֶר חֲמוֹר – לְאַלְתַּר.

§ **We learned** in a *baraita* **elsewhere: Valuations** are determined based **on the time of** the vow. Therefore, if one vowed to consecrate the valuation of an infant who is less than one month old, he is not obligated to give any money even after the infant is one month old, as an infant less than one month old has no valuation. **And** with regard to **redeeming** a woman's firstborn **son,** one must give the required sum to the priest **after** the infant is **thirty days** old, as it is stated: "And their redemption money, from a month old shall you redeem them" (Numbers 18:16). With regard to **redeeming a firstborn donkey,** it must be performed **immediately.**

וּפִדְיוֹן פֶּטֶר חֲמוֹר לְאַלְתַּר? וְרִמִינְהִי: אֵין בַּעֲרָכִין וּבְפִדְיוֹן הַבֵּן וּבִנְזִירוּת וּבְפֶטֶר חֲמוֹר פָּחוֹת מִשְּׁלֹשִׁים,

The Gemara asks: **And** must **redeeming a firstborn donkey** be performed **immediately? But** one can **raise a contradiction** from another *baraita*: The *halakhot* **of valuations,**[H] **and of redemption of** a woman's firstborn **son,**[H] **and of nazirite vows,**[H] **and of a firstborn donkey, do not** apply to **less than thirty** days. In other words, the *halakhot* of valuations, of the redemption of a woman's firstborn son, and of a firstborn donkey do not apply to a person or animal that is less than thirty days old, and a term of naziriteship is a minimum of thirty days.

וּמוֹסִיפִין עַד עוֹלָם!

But one may add to this amount **forever.** Meaning, the *halakhot* of valuations apply to a person of any age beyond thirty days, the redemption of a woman's firstborn son and of a firstborn donkey apply even if the firstborn in question is already several years old, and one can vow to be a nazirite for any length of time beyond thirty days. This *baraita* indicates that a firstborn donkey is not redeemed immediately, but only after thirty days.

אָמַר רַב נַחְמָן: לוֹמַר שֶׁאִם פְּדָאוֹ – פָּדוּי. מִכְּלָל דִּבְנוֹ, אִם פְּדָאוֹ – אֵינוֹ פָּדוּי? וְהָאֵיתְמַר: הַפּוֹדֶה אֶת בְּנוֹ בְּתוֹךְ שְׁלֹשִׁים יוֹם, רַב אָמַר: בְּנוֹ פָּדוּי!

Rav Naḥman says: When the first *baraita* states that a firstborn donkey must be redeemed immediately, it means **to say that if one redeemed it** immediately, **it is redeemed,** although it should be redeemed only after thirty days *ab initio*. The Gemara asks: **By inference,** in the case **of** a woman's firstborn **son,** where the first *baraita* states that he is redeemed after thirty days, **if one redeemed him** prior to that time, **is he not redeemed? But wasn't it stated:** In the case of **one who redeems his son within thirty days**[H] of birth, **Rav says: His son is redeemed?**

לָאו אִיתְמַר עֲלָהּ, אָמַר רָבָא: דְּכוּלֵי עָלְמָא, ״מֵעַכְשָׁיו״ – אֵין בְּנוֹ פָּדוּי!

The Gemara responds: **Wasn't it stated with regard to that** matter that **Rava says: Everyone** agrees that if one says within thirty days of his son's birth that he is redeeming him **from now, his son is not redeemed.** Such a redemption would be effective only if he gave the money on condition that the redemption will take effect after his son turns thirty days old.

HALAKHA

Valuations…do not apply to less than thirty days – אֵין בַּעֲרָכִין פָּחוֹת מִשְּׁלֹשִׁים: An infant who is less than thirty days old has no valuation. Therefore, one who vows to give the valuation of this infant to the Temple is not obligated to give any money (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 1:3).

Redemption of a firstborn son…does not apply to less than thirty days – אֵין בְּפִדְיוֹן הַבֵּן פָּחוֹת מִשְּׁלֹשִׁים: The obligation of redeeming a firstborn son takes effect once the son is thirty days old (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:17; *Shulḥan Arukh*, *Yoreh De'a* 305:11).

Nazirite vows…do not apply to less than thirty days – אֵין בִּנְזִירוּת פָּחוֹת מִשְּׁלֹשִׁים: A standard term of naziriteship is thirty days. Even if one states: I declare myself a nazirite for one day, or ten days, or twenty days, he is still a nazirite for thirty days (Rambam *Sefer Hafla'a*, *Hilkhot Nezirut* 3:1–2).

One who redeems his son within thirty days – הַפּוֹדֶה אֶת בְּנוֹ בְּתוֹךְ שְׁלֹשִׁים יוֹם: In the case of one who redeems his son within thirty days, if he says that he is redeeming him from now, his son is not redeemed, but if he says that his son will be redeemed after thirty days, his son is redeemed, in accordance with the opinion of Rav. The Rema writes that some say that if the money is not in existence anymore on the thirtieth day, or if the priest returned the money to the father within the thirty days, the son is not redeemed even after the fact. Therefore, it is appropriate to be stringent and redeem the son again, in accordance with the opinion of Shmuel, whose opinion is accepted as practical *halakha* by the Gemara on 49b (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:18; *Shulḥan Arukh*, *Yoreh De'a* 305:13).

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רַב שֵׁשֶׁת אָמַר: לוֹמַר שֶׁאֵינוֹ עוֹבֵר עָלָיו.

Rav Sheshet says: The mitzva of redeeming a firstborn donkey takes effect immediately after it is born, as is stated in the first *baraita*. The second *baraita*, which states that it applies only after thirty days, means **to say that** until that time, **one does not transgress** a prohibition if he has not yet performed the redemption. After thirty days, though, one transgresses a prohibition if he still has not redeemed his firstborn donkey.

מְתִיב רָמִי בַּר חָמָא: מִצְוָתוֹ כָּל שְׁלֹשִׁים יוֹם, מִכָּאן וָאֵילָךְ – אוֹ פּוֹדֵהוּ אוֹ עוֹרְפוֹ. מַאי לָאו מִצְוָה לַשְׁהוֹתוֹ כָּל שְׁלֹשִׁים יוֹם? לָא, מִצְוָה לִפְדּוֹתוֹ כָּל שְׁלֹשִׁים יוֹם.

Rami bar Ḥama raises an objection to Rav Sheshet from a *baraita*: **The mitzva of** a firstborn donkey applies **throughout** the period of **thirty days** from its birth; **from that** point **forward he must either redeem it** immediately **or break its neck. What,** does it **not** mean that there is **a mitzva to wait** to redeem **it** until **all thirty days** have passed? The Gemara answers: **No,** it means that there is **a mitzva to redeem it throughout** the period of **thirty days,** and after that point one has transgressed a prohibition.

אִי הָכִי, ״מִכָּאן וָאֵילָךְ אוֹ פּוֹדֵהוּ אוֹ עוֹבֵר עָלָיו״ מִיבָּעֵי לֵיהּ! אֶלָּא אָמַר רָבָא: לָא קַשְׁיָא, הָא רַבִּי אֱלִיעֶזֶר – דְּמַקֵּשׁ, הָא רַבָּנַן – דְּלָא מַקֵּשׁ.

The Gemara asks: **If so,** it **should have** stated: **From that** point **forward, either he redeems it or he transgresses** a prohibition, rather than stating: From that point forward he must either redeem it or break its neck. **Rather, Rava says:** The contradiction between the two *baraitot* is **not difficult,** as **this** *baraita*, which states that the redemption is performed after thirty days, is in accordance with the opinion of **Rabbi Eliezer,**[N] **who compares** the redemption of a firstborn donkey to the redemption of a woman's firstborn son, where it is stated: "From a month old shall you redeem them" (Numbers 18:16). **That** *baraita*, which states that one must perform the mitzva immediately, is in accordance with the opinion of **the Rabbis, who do not compare**[H] the two mitzvot of redemption.

מתני׳ לֹא רָצָה לִפְדּוֹתוֹ – עוֹרְפוֹ מֵאֲחוֹרָיו וְקוֹבְרוֹ. מִצְוַת הַפְּדָיָיה קוֹדֶמֶת לְמִצְוַת עֲרִיפָה, שֶׁנֶּאֱמַר: ״אִם לֹא תִפְדֶּה וַעֲרַפְתּוֹ״.

MISHNA If **one did not wish to redeem** the firstborn donkey, **he breaks its neck from behind and buries it. The mitzva of redeeming** the firstborn donkey **takes precedence over the mitzva of breaking the neck,**[NH] **as it is stated:** "**If you will not redeem it, then you shall break its neck**" (Exodus 13:13).

מִצְוַת יְעִידָה קוֹדֶמֶת לְמִצְוַת הַפְּדָיָיה, שֶׁנֶּאֱמַר: ״אֲשֶׁר לֹא יְעָדָהּ וְהֶפְדָּה״.

The mishna proceeds to enumerate other mitzvot in which one option takes precedence over another. **The mitzva of designating** a Hebrew maidservant to be betrothed to her master **takes precedence over the mitzva of redeeming**[H] the maidservant from her master with money, **as it is stated:** "If she does not please her master, **who has not betrothed her to himself, then he shall let her be redeemed**" (Exodus 21:8).

NOTES

This *baraita* is in accordance with the opinion of Rabbi Eliezer – הָא רַבִּי אֱלִיעֶזֶר: Rashi explains that the *baraita* from which Rami bar Ḥama proves that there is a mitzva to wait until after thirty days is in accordance with the opinion of Rabbi Eliezer, while the first two *baraitot* are taught in accordance with the opinion of the Rabbis. With regard to resolving the contradiction between the first two *baraitot*, Rava follows the opinion of Rav Sheshet that it is a mitzva to redeem a firstborn donkey immediately, and the second *baraita*, which states: The redemption of a firstborn donkey does not apply to less than thirty days, means that one does not transgress a prohibition prior to this time. This appears to be the opinion of the *Or Zarua* and *Tosafot Ḥitzoniyyot* (see *Shita Mekubbetzet*), both of which have a version of the text where Rava declares: I do not answer in accordance with the opinion of Rav Naḥman, but rather in accordance with the opinion of Rav Sheshet.

Other commentaries explain that Rava does not accept the opinion of Rav Sheshet, but rather holds that the second *baraita* also follows the opinion of Rabbi Eliezer, who holds that one must wait thirty days. The first *baraita*, which states that a firstborn donkey is redeemed immediately, and does not suggest waiting thirty days, is in accordance with the opinion of the Rabbis. This appears to be the opinion of the Ramban and the Rosh (see also *Tosafot Ḥitzoniyyot*). From the words of the Rambam, it seems that he maintains that Rava understands the *baraita* cited by Rami bar Ḥama to be in accordance with the opinion of the Rabbis, and not Rabbi Eliezer. According to this explanation, the Rabbis also hold that one should perform the redemption during the first thirty days *ab initio*, but if he did not, he has not transgressed a prohibition (Gra; see also *Kesef Mishne*).

The mitzva of redeeming the firstborn donkey takes precedence over the mitzva of breaking the neck – מִצְוַת הַפְּדָיָיה קוֹדֶמֶת לְמִצְוַת עֲרִיפָה: This mishna appears to indicate that the mitzva of redeeming the firstborn donkey and the mitzva of breaking the neck are two distinct mitzvot. This is the opinion of the Rambam, who writes that there is a mitzva to redeem a firstborn donkey with a lamb, and if the owner does not want to do so, there is a positive mitzva to break its neck (*Sefer Zera'im*, *Hilkhot Bikkurim* 12:1). The Ra'avad holds that breaking the neck is certainly not a mitzva, and in fact involves a transgression, as he causes a financial loss to the priest, in accordance with the opinion of Levi on 10b, who said: He caused a loss of the money of a priest by not giving him a lamb in exchange for the donkey; therefore, his money shall also be lost. According to this opinion, the usage of the term: Mitzva, in the phrase: The mitzva of breaking the neck, is incidental, and is merely intended to parallel the expression: The mitzva of redeeming.

HALAKHA

That *baraita* is in accordance with the opinion of the Rabbis who do not compare – הָא רַבָּנַן דְּלָא מַקֵּשׁי: One is obligated to redeem a firstborn donkey from the time of its birth until it dies, in accordance with the opinion of the Rabbis, and in accordance with the answer of Rava, who says that the owner does not violate a transgression if he does not perform redemption by the conclusion of thirty days (*Halakhot Gedolot*; see also Rambam). It is a mitzva to redeem it immediately so as not to delay the performance of the mitzva (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:6; *Shulḥan Arukh*, *Yoreh De'a* 321:1).

The mitzva of redeeming the firstborn donkey takes precedence over the mitzva of breaking the neck – מִצְוַת הַפְּדָיָיה קוֹדֶמֶת לְמִצְוַת עֲרִיפָה: There is a positive mitzva to redeem any firstborn donkey that is born to a female donkey, with a lamb. If the owner of the donkey does not want to redeem it, there is a positive mitzva to break its neck. The mitzva of redeeming it is preferable to that of breaking the neck, in accordance with the statement of the mishna (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 12:1; *Shulḥan Arukh*, *Yoreh De'a* 321:12).

The mitzva of designating a Hebrew maidservant to be betrothed to her master takes precedence over the mitzva of redeeming – מִצְוַת יְעִידָה קוֹדֶמֶת לְמִצְוַת הַפְּדָיָיה: The mitzva of designating a Hebrew maidservant for betrothal by her master takes precedence over the mitzva of redeeming her from her master with money (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 4:7).

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מִצְוַת הַיִּבּוּם קוֹדֶמֶת לְמִצְוַת חֲלִיצָה, בָּרִאשׁוֹנָה שֶׁהָיוּ מִתְכַּוְּונִין לְשֵׁם מִצְוָה. וְעַכְשָׁיו שֶׁאֵין מִתְכַּוְּונִין לְשֵׁם מִצְוָה, אָמְרוּ: מִצְוַת חֲלִיצָה קוֹדֶמֶת לְמִצְוַת יִבּוּם.

The mitzva of levirate marriage takes precedence over the mitzva of *ḥalitza*,[BH] which dissolves the levirate bond, as it is stated: "And if the man does not wish to take his brother's wife" (Deuteronomy 25:7). The mishna adds: This was the case **initially, when** people **would intend** that their performance of levirate marriage be **for the sake of the mitzva. But now that they do not intend** that their performance of levirate marriage be **for the sake of the mitzva,**[N] but rather for reasons such as the beauty of the *yevama* or for financial gain, the Sages **said** that **the mitzva of *ḥalitza* takes precedence over the mitzva of levirate marriage.**

מִצְוַת הַגְּאוּלָּה בָּאָדוֹן, הוּא קוֹדֵם לְכָל אָדָם, שֶׁנֶּאֱמַר: "וְאִם לֹא יִגָּאֵל וְנִמְכַּר בְּעֶרְכֶּךָ".

With regard to a non-kosher animal that was consecrated to the Temple, **the mitzva of redemption by the owner** who consecrated it **takes precedence**[H] **over** redemption by **any** other **person, as it is stated:** "And if it is of a non-kosher animal… **and if it is not redeemed, it shall be sold according to your valuation"** (Leviticus 27:27).

הדרן עלך הלוקח עובר חמורו

BACKGROUND

Levirate marriage and *ḥalitza* – יִבּוּם וְחֲלִיצָה: A man whose brother died without children [*yavam*] is obligated by Torah law to marry his deceased brother's widow [*yevama*] or to free her by means of a *ḥalitza* ceremony (see Deuteronomy 25:5–10). As long as neither levirate marriage nor *ḥalitza* has taken place, it is prohibited for her to marry another man. According to the Torah, levirate marriage is effected by the act of sexual intercourse. The Sages instituted the practice of *ma'amar*, in which the *yavam* betroths the *yevama*, although this betrothal is not effective by Torah law. Intercourse then consummates the marriage, and she is thereafter considered his wife in all respects.

NOTES

But now that they do not intend for the sake of the mitzva – וְעַכְשָׁיו שֶׁאֵין מִתְכַּוְּונִין לְשֵׁם מִצְוָה: In *Yevamot* (39b) it is explained that it is the opinion of Abba Shaul that one's brother's wife is considered one of those with whom relations are forbidden by Torah law, and the Torah permitted marrying her only in the case of a mitzva, i.e., levirate marriage. Therefore, Abba Shaul claims: If he performs levirate marriage due to her beauty or wealth, it is considered as if he has encountered a forbidden relative, and I am inclined to view the offspring born from such a union as a son born from an incestuous relationship [*mamzer*]. The Rabbis hold that once the Torah permitted marrying the *yevama*, she was entirely permitted to him, irrespective of his intentions.

HALAKHA

The mitzva of levirate marriage takes precedence over the mitzva of *ḥalitza* – מִצְוַת הַיִּבּוּם קוֹדֶמֶת לְמִצְוַת חֲלִיצָה: The mitzva of levirate marriage takes precedence over the mitzva of *ḥalitza* (Rif; Rambam), in accordance with the opinion of Rami bar Ḥama (*Yevamot* 39b), who rules that the *halakha* is not in accordance with the mishna here. Some say that the mitzva of *ḥalitza* takes precedence over the mitzva of levirate marriage (Rashi), in accordance with the mishna here and the statement of Rav Naḥman bar Yitzḥak there. In later generations, the custom in Ashkenazic communities has been to perform *ḥalitza* rather than levirate marriage (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 1:2; *Shulḥan Arukh*, *Even HaEzer* 165:1).

Redemption by the owner takes precedence – הַגְּאוּלָּה בָּאָדוֹן הוּא קוֹדֵם: In the case of one who consecrates his house, his non-kosher animal, or other movable property that he owns, its value is assessed (see Leviticus 27:12). If the property is redeemed by the one who consecrated it, by his wife, or by his inheritors, the one who redeems it must add one-fifth of its value. The owner is coerced to bid to redeem it first (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 5:3).

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Summary of **Perek I**

With regard to the interpretation of the verse that limits the mitzva of redeeming a firstborn donkey to one that is "in Israel" (see Numbers 3:13), the Gemara concluded that if a gentile owns any portion of either the mother or the offspring, even a portion of the ear, the offspring is not subject to firstborn status. In addition, the Gemara derived from the verses that this mitzva is limited to Israelites who own donkeys, but priests and Levites are exempt, just as they are exempt from redeeming a woman's firstborn son.

It was concluded that the offspring has firstborn status only if it is appears as being from the same species as its mother, both in the case of a firstborn donkey and in the case of a firstborn kosher animal. Therefore, if a cow gives birth to a donkey of sorts or a donkey gives birth to a horse of sorts, the offspring is not subject to firstborn status. Nevertheless, in a number of instances, if the offspring has some of the characteristics of its mother it is still subject to firstborn status.

This principle that the offspring must be similar in appearance to its mother applies only to the mitzva of redeeming the firstborn, but with regard to other Torah laws, any animal that is born to a kosher animal is considered kosher, even if its appearance is similar to that of a non-kosher animal, and any animal that is born to a non-kosher animal is considered non-kosher, even if its appearance is similar to that of a kosher animal. The Gemara discussed the status of items that come from a living animal. The Gemara distinguished between items that are considered part of the living animal, such as its milk, and consequently have the status of the mother, and items that have not undergone any process of transformation inside the animal's body, which are permitted even if they emerge from a non-kosher animal, such as the honey of a bee. Likewise, items that emerge from a living animal are permitted if they are utterly insignificant, like a secretion.

Following this discussion, it was explained that the lamb mentioned in the Torah, which is used to redeem the firstborn donkey, can be a live lamb or a live goat. The lamb may be of any age, and it may be male or female. Even a hybrid of a sheep and a goat is suitable. One may not redeem a donkey with any other animal species. In addition, one may not use a slaughtered lamb or a *tereifa* as the redemption animal. With regard to the value of the redemption animal, it is not required that it be of the same value as the donkey, and even if one redeems his donkey with a lamb that is worth merely one *peruta* the redemption is valid. If one does not own a lamb, he may redeem the firstborn donkey with any item, provided that it is of the same monetary value as the donkey. Nevertheless, it is generally not permitted for the owner to give the firstborn donkey itself to the priest, as priests are suspected of violating the mitzva of redeeming the firstborn donkey. Even if the priest promises to designate a lamb

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in place of the donkey, the owner may not give the donkey to the priest unless the priest immediately designates the lamb in the presence of the owner.

With regard to deriving benefit from a firstborn donkey before it is redeemed, the conclusion was that it is prohibited to do so. As soon as it is redeemed, the donkey has non-sacred status and belongs to the owner in all respects. The lamb has no sanctity either, and the priest may use it in whatever manner he wishes, as the act of redemption merely removes the prohibited status from the donkey, without consecrating the lamb. Once the owner designates the lamb instead of the donkey, the lamb is immediately considered to be the property of the priest, even before it is given to him, and consequently it is permitted to derive benefit from the donkey. Therefore, the owner does not bear financial responsibility for the lamb if it dies after that point, as in such a case the lamb is still considered to have been given to the priest.

In the case of a donkey with uncertain firstborn status, such as when a female donkey gives birth to a male and a female and it is unknown which was born first, the owner is not obligated to give a lamb to the priest, due to the principle that the burden of proof rests upon the claimant. Nevertheless, it is prohibited to derive benefit from a male donkey with uncertain firstborn status, and the owner must still designate a lamb in order to remove its prohibited status, but the lamb remains the property of the owner.

The mitzva of redeeming a firstborn donkey takes precedence over the mitzva of breaking its neck. If the owner does not wish to redeem it, he must break its neck from behind with a cleaver; he may not kill it in a different manner. Although the Sages disagree as to whether it is prohibited to derive benefit from a firstborn donkey while it is alive, all agree that after its neck is broken, it is prohibited to derive benefit from it.

These are the primary topics that were explored in this chapter. There was also some aggadic material relating to the redemption of the Israelite firstborn in the wilderness through the Levites. In addition, due to a discussion in the Gemara with regard to the methods of conception and procreation of various animals, another aggadic passage was cited relating Rabbi Yehoshua ben Ḥananya's dispute with the sages of Athens. This passage illustrated the superiority of the wisdom of the Jewish Sages over the wisdom of the Greeks, in the realm of both the natural and the supernatural.

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Introduction to **Perek II**

And it shall be when the Lord shall bring you into the land of the Canaanite, as He swore unto you and to your fathers, and shall give it to you, that you shall set apart unto the Lord all that which opens the womb; every firstborn that you have of animals, the males shall be to the Lord.

(Exodus 13:11–12)

But the firstborn of an ox, or the firstborn of a sheep, or the firstborn of a goat, you shall not redeem; they are holy. You shall sprinkle their blood against the altar, and shall make their fat smoke for an offering made by fire, for a pleasing aroma to the Lord. And the flesh of them shall be yours, as the wave offering of the breast and as the right thigh, it shall be yours.

(Numbers 18:17–18)

All the firstborn males that are born of your herd and of your flock you shall sanctify to the Lord your God; you shall do no work with the firstborn of your ox, nor shear the firstborn of your flock. You shall eat it before the Lord your God year by year in the place that the Lord shall choose, you and your household. And if there be any blemish therein, lameness, or blindness, any ill blemish whatsoever, you shall not sacrifice it to the Lord your God. You shall eat it within your gates; the impure and the pure may eat it alike, as the gazelle, and as the hart.

(Deuteronomy 15:19–22)

This chapter is the first of several that deal with the *halakhot* of the firstborn offspring of a kosher animal. It focuses mainly on clarifying those situations where an offspring is subject to being counted a firstborn.

The word "Israelite" appears several times in the passages of the Torah that discuss this mitzva. This raises the question of whether or not an animal must belong exclusively to a Jew in order for it to be classified as a firstborn. Although the issue of an animal owned in part by a gentile and a Jew was discussed in the preceding chapter, it is analyzed here in greater detail, together with the question of whether or not property liened to a gentile is subject to the mitzva of the firstborn. Additionally, this chapter addresses the case of a Jew who purchases an animal from a gentile, in order to determine at what point the animal is acquired by the Jew and therefore is subject to having its offspring counted a firstborn. Likewise, the chapter also discusses the reverse case of a Jew who sells an animal to a gentile.

The chapter also deals with the question of whether or not a disqualified consecrated animal that is owned by a Jew is subject to this mitzva. On the one hand, the animal is unfit for sacrifice; on the other hand, such animals still possess some degree of sanctity.

Beyond these issues involving the owner of an animal and its offspring, many questions arise with regard to the animal itself. For example, what is the *halakha* in the case of an animal that is firstborn, but appears to resemble a different species than that of its parents? Likewise, in light of the verse: "All that which opens the womb" (Exodus 13:12), is an animal born by caesarean section considered a firstborn? What of the offspring that follows it? What is the *halakha* when twin male offspring are born at the same time? Is it possible for two offspring to be firstborn?

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Many difficulties arise when a herd of animals is involved, as multiple animals may give birth without the owner's awareness. This can lead to uncertainty as to which of the offspring belongs to the priest. What is the *halakha* in a case where two animals give birth for the first time, one to a male and the other to a female? What if one of them has given birth previously, but it is not known which offspring was born to which mother? What about animals that belong to two different people?

Some of these issues have ramifications not only for the ownership of the offspring, but also for the halakhic question of what must be done with the animal. Is it sacrificed? May it be sold? These matters are the main topic of the chapter.

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מתני׳ הַלּוֹקֵחַ עוּבַּר פָּרָתוֹ שֶׁל נָכְרִי, וְהַמּוֹכֵר לוֹ אַף עַל פִּי שֶׁאֵינוֹ רַשַּׁאי, וְהַמִּשְׁתַּתֵּף לוֹ, וְהַמְקַבֵּל מִמֶּנּוּ, וְהַנּוֹתֵן לוֹ בְּקַבָּלָה – פָּטוּר מִן הַבְּכוֹרָה, שֶׁנֶּאֱמַר: ״בְּיִשְׂרָאֵל״, אֲבָל לֹא בַּאֲחֵרִים.

MISHNA With regard to **one who purchases the fetus of a cow** that **belongs to a gentile;**[H] **one who sells** the fetus of his cow **to** a gentile, **even though one is not permitted** to sell a large animal to a gentile; **one who enters into a partnership**[H] **with** a gentile with regard to a cow or its fetus; **one who receives** a cow **from** a gentile[H] to tend to it in exchange for partnership in its offspring; **and one who gives** his cow to a gentile **in receivership,** so that the gentile owns a share of the cow's offspring; in all of these cases, one is **exempt from** the obligation of redeeming **the firstborn** offspring, **as it is stated:** "I sanctified to Me all the firstborn **in Israel,** both man and animal" (Numbers 3:13), indicating that the mitzva is incumbent upon the Jewish people, **but not upon others.** If the firstborn belongs even partially to a gentile, the sanctity of firstborn does not apply to it.

הַכֹּהֲנִים וְהַלְוִיִּם חַיָּבִים, שֶׁלֹּא נִפְטְרוּ מִבְּכוֹר בְּהֵמָה טְהוֹרָה, אֶלָּא מִפִּדְיוֹן הַבֵּן וּמִפֶּטֶר חֲמוֹר.

The mishna continues: **The priests and the Levites**[H] **are obligated** in the mitzva, i.e., their animals have firstborn sanctity, **as they were not exempted from** the mitzva of the male **firstborn of a kosher animal; rather,** they were exempted only **from redemption of the** firstborn **son and from** the redemption of **the firstborn donkey.**

גמ׳ מַאי אִירְיָא דְּתָנֵי עוּבַּר חֲמוֹרוֹ בְּרִישָׁא, וְהַדַּר תָּנֵי עוּבַּר פָּרָתוֹ? לִיתְנֵי בְּרִישָׁא עוּבַּר פָּרָתוֹ – דְּקְדוּשַׁת הַגּוּף הוּא, וְהַדַּר לִיתְנֵי עוּבַּר חֲמוֹרוֹ – דְּקְדוּשַׁת דָּמִים הוּא!

GEMARA The first chapter of this tractate began with the *halakhot* pertaining to a firstborn donkey. The Gemara asks: **Why does** the *tanna* **specifically teach** the *halakhot* of **the fetus of his donkey first, and** only **then teach** the *halakhot* of **the fetus of his cow? Let him first teach** the *halakhot* of **the fetus of his cow, as it is** a case of **inherent sanctity,** i.e., the animal cannot be redeemed and is sacrificed upon the altar, **and let him then teach** the *halakhot* of **the fetus of his donkey, as it is** a case of **sanctity** that inheres in its **value.**

אָמְרִי בְּמַעֲרָבָא: אִיבָּעֵית אֵימָא, אַיְידֵי דַּחֲבִיבָא לֵיהּ, כִּדְרַבִּי חֲנִינָא. וְאִי בָּעֵית אֵימָא, אַיְידֵי דְּזוּטְרָן מִילֵּיהּ דִּבְהֵמָה טְמֵאָה, פָּסֵיק וְשָׁדֵי לָהּ.

They said in the West, Eretz Yisrael: **If you wish, say** that the *halakhot* of a firstborn donkey were taught first **since** they are **dear to** the *tanna,* **in accordance with** the statement of **Rabbi Ḥanina** (5b) that donkeys helped the Jews when they departed from Egypt, as the Jews loaded their gold and silver on donkeys. **And if you wish, say** that these *halakhot* were taught first **since the matters** pertaining to **a non-kosher animal are** relatively **few,** and therefore the *tanna* **completes** its treatment **and sets it** aside.

אָמַר רַבִּי יִצְחָק בַּר נַחְמָנִי אָמַר רֵישׁ לָקִישׁ מִשּׁוּם רַבִּי אוֹשַׁעְיָא: יִשְׂרָאֵל שֶׁנָּתַן מָעוֹת לְגוֹי בִּבְהֶמְתּוֹ בְּדִינֵיהֶם, אַף עַל פִּי שֶׁלֹּא מָשַׁךְ – קָנָה, וְחַיֶּבֶת בִּבְכוֹרָה. וְגוֹי שֶׁנָּתַן מָעוֹת לְיִשְׂרָאֵל בִּבְהֶמְתּוֹ בְּדִינֵיהֶם, אַף עַל פִּי שֶׁלֹּא מָשַׁךְ – קָנָה, וּפָטוּר מִן הַבְּכוֹרָה.

§ With regard to the mishna's discussion of sales involving Jews and gentiles, **Rabbi Yitzḥak bar Naḥmani says** that **Reish Lakish said in the name of Rabbi Oshaya:** In the case of **a Jew who gave money to a gentile to** buy the gentile's **animal** from him **according to their laws,**[HN] as explained further on, **even though** the Jew **did not pull** the animal in the manner of a formal acquisition, as required by *halakha,* **he has** legally **acquired** it, **and** the Jewish owner **is obligated** to give the animal's **firstborn** offspring to a priest. **And** in the case of **a gentile who gave money to a Jew to** buy the Jew's **animal** from him **according to their laws, even though** the gentile **did not pull** the animal **he has acquired** it, **and** the Jew **is** therefore **exempt from** giving the animal's **firstborn** offspring to a priest.

HALAKHA

One who purchases the fetus of a cow that belongs to a gentile – הַלּוֹקֵחַ עוּבַּר פָּרָתוֹ שֶׁל נָכְרִי: In the case of one who purchases the fetus of a cow from a gentile, or who sells the fetus of his own cow to a gentile even though it is prohibited for him to do so, the sanctity of firstborn offspring does not apply to the fetus when it is born (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:2).

One who enters into a partnership – הַמִּשְׁתַּתֵּף: If a gentile owns some part of a Jew's animal or its offspring, even if it is less than one-thousandth of a share, the sanctity of firstborn offspring does not apply to the offspring (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:1; *Shulḥan Arukh*, *Yoreh De'a* 320:3).

One who receives a cow from a gentile – הַמְקַבֵּל מִמֶּנּוּ: If one receives an animal from a gentile to tend to it in exchange for partnership in its offspring, or if one entrusts his animal to a gentile and in exchange grants the gentile partnership in its offspring, the sanctity of firstborn offspring does not apply to the offspring (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:3; *Shulḥan Arukh*, *Yoreh De'a* 320:3).

The priests and the Levites – הַכֹּהֲנִים וְהַלְוִיִּם: Firstborn kosher animals of priests and Levites have sanctity. A priest simply designates the firstborn for himself, while a Levite gives the firstborn to a priest (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:4, 7; *Shulḥan Arukh*, *Yoreh De'a* 320:1 and *Levush* there).

A Jew who gave money to a gentile to buy his animal according to their laws – יִשְׂרָאֵל שֶׁנָּתַן מָעוֹת לְגוֹי בִּבְהֶמְתּוֹ בְּדִינֵיהֶם: A Jew who paid money to a gentile in order to purchase his animal has acquired it even if he has not yet pulled it, and the same applies in a case where a gentile paid money to a Jew, in accordance with the statement of Reish Lakish. Some commentaries contend that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan on the next *amud* that acquisition of a gentile's property can be accomplished only through pulling (Rabbeinu Tam; see *Mishna Berura*, *Oraḥ Ḥayyim* 448:17). Accordingly, one who sells a pregnant animal to a gentile must ensure that the gentile has both paid for and pulled it (*Shakh*). Some hold that the gentile does acquire it through pulling after the fact (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:5; *Shulḥan Arukh*, *Yoreh De'a* 320:6, and in the comment of Rema and *Pitḥei Teshuva* there).

NOTES

According to their laws – בְּדִינֵיהֶם: Some explain that Rabbi Oshaya is saying that whenever a Jew purchases an animal from a gentile, the transaction follows the gentile laws, i.e., ownership is transferred once the payment has been made (Rashi; Rabbeinu Gershom Meor HaGola). Others maintain that the reference is to a case in which the two parties stipulated that the sale would be subject to gentile laws rather than *halakha* (*Tosafot* on *Bava Batra* 54b); accordingly, the default convention is that the transaction is performed according to *halakha* (see Maharit Algazi). This is apparently the opinion of the Rambam as well (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:5).

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HALAKHA

A Canaanite slave is acquired by the transfer of money – עֶבֶד כְּנַעֲנִי נִקְנֶה בְּכֶסֶף: A Canaanite slave can be acquired with money, a bill of sale, taking possession, symbolic exchange, or pulling (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 5:1; *Shulḥan Arukh*, *Yoreh De'a* 267:23).

As he acquires a Jew's person with money – דְּגוּפֵיהּ קָנֵי לֵיהּ בְּכֶסֶף: A Hebrew slave can be acquired through a bill of sale or payment (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 2:1).

אָמַר מָר: יִשְׂרָאֵל שֶׁנָּתַן מָעוֹת לְגוֹי בִּדְיֵנֵיהֶם, אַף עַל פִּי שֶׁלֹּא מָשַׁךְ – קָנָה, וְחַיֶּיבֶת בִּבְכוֹרָה.

The Master said: In the case of **a Jew who gave money to a gentile** to buy the gentile's animal from him **according to their laws, even though he did not pull** the animal **he has** legally **acquired** it, **and** the Jew **is obligated** to give the animal's **firstborn** offspring to a priest.

מַאי ״בִּדְיֵנֵיהֶם״? אִי נֵימָא בִּדְיֵנֵיהֶם דְּגוּפֵיהּ, דְּאָתֵי בְּקַל וָחוֹמֶר: אִם גּוּפֵיהּ קָנֵי לֵיהּ יִשְׂרָאֵל בְּכֶסֶף; דִּכְתִיב: ״לָרֶשֶׁת אֲחֻזָּה״

The Gemara asks: **What** is meant by: **According to their laws? If we say** that it is referring **to the laws** relating **to** the purchase of a gentile's **person** as a slave, i.e., the *halakhot* of purchasing gentiles themselves rather than the methods by which gentiles can acquire property, this must be based on the assumption that the *halakha* with regard to the purchase of a gentile's animal **is derived by** the following ***a fortiori*** inference: **If** a gentile's **person is acquired by a Jew** as a Canaanite slave **through** payment of **money, as it is written:** "And you may make them an inheritance for your children after you, **to hold for an ancestral possession"** (Leviticus 25:46), the same *halakha* should apply to acquiring a gentile's property.

הִקִּישׁוֹ הַכָּתוּב לַאֲחוּזָּה: מָה אֲחוּזָּה נִקְנֵית בְּכֶסֶף וּבִשְׁטָר וּבַחֲזָקָה – אַף עֶבֶד כְּנַעֲנִי נִקְנֶה בְּכֶסֶף; מָמוֹנוֹ לֹא כָּל שֶׁכֵּן הוּא?

The Gemara elaborates: **The verse** thereby **compares** a gentile slave **to an ancestral possession,** i.e., land: **Just as an ancestral possession is acquired by** the transfer **of money, or with a bill of sale, or through taking possession, so too, a Canaanite slave is acquired by** the transfer of **money.**[H] If this is the *halakha* with regard to a gentile's person, **is it not all the more so** reasonable that a gentile's **property** is acquired through the transfer of money?

אִם כֵּן, אֲפִילּוּ בְּשִׁטָּר וּבַחֲזָקָה נַמִי! וְעוֹד, יִשְׂרָאֵל מִישָּׂרָאֵל יוֹכִיחַ, דְּגוּפֵיהּ – קָנֵי לֵיהּ בְּכֶסֶף, מָמוֹנוֹ – בִּמְשִׁיכָה!

The Gemara rejects this conclusion: **If so,** then according to *halakha* it should be possible to acquire a gentile's property **even with a bill of sale or by taking possession,** which is not so. The Gemara adds: **And furthermore,** the *halakha* pertaining to **a Jew** purchasing goods **from a Jew proves** that the entire premise of the *a fortiori* inference is false, **as he acquires** a Jew's **person with money**[H] alone, but he acquires **his property** only **by pulling.** It is therefore evident that the ability to acquire one's person with money does not indicate that his property can be purchased in the same manner.

אֶלָּא אָמַר אַבַּיֵי: בְּדִינֵיהֶם שֶׁפָּסְקָה לָהֶם תּוֹרָה: ״אוֹ קָנֹה מִיַּד עֲמִיתֶךָ״ – מִיַּד עֲמִיתֶךָ הוּא דְּבִמְשִׁיכָה, הָא מִיַּד גּוֹי – בְּכֶסֶף.

Rather, Abaye says that the term: Their laws, is referring to **their laws that the Torah prescribed for their** methods of purchase, by stating: **"Or buy of your counterpart's hand"** (Leviticus 25:14), which teaches that **it is** only **from the hand of your counterpart,** i.e., a Jew, **that** property **is** acquired **by** the formal act of acquisition of **pulling.** This indicates that acquiring property **from the hand of a gentile** is accomplished **through** payment of **money.**

וְאֵימָא: מִיַּד גּוֹי כְּלָל כְּלָל לֹא! אָמְרִי: לָא סָלְקָא דַּעְתָּךְ, קַל וָחוֹמֶר הוּא: אִם גּוּפוֹ קוֹנֶה, מָמוֹנוֹ לֹא כָּל שֶׁכֵּן?

The Gemara raises an objection: **But** one can **say** that it should be inferred from the verse that one **cannot** purchase anything **at all from the hand of a gentile.** The Sages **said** in response: That **cannot enter your mind,** as there **is an *a fortiori*** inference which indicates otherwise: **If** a Jew can **purchase** a gentile's **person** as a slave, is it **not all the more so** reasonable that he can purchase a gentile's **property?**

וְאֵימָא: מִיַּד גּוֹי עַד דְּאֵיכָּא תַּרְתֵּי! אָמְרִי: וְלָאו קַל וָחוֹמֶר הוּא? גּוּפוֹ – בְּאַחַת, מָמוֹנוֹ בְּשְׁתַּיִם?! וְאֵימָא: אוֹ בְּהָא אוֹ בְּהָא! דּוּמְיָא דַּ״עֲמִיתֶךָ״,

The Gemara raises another objection: **But** one can **say** that the verse teaches that whereas a Jew's property is acquired through pulling, property purchased **from the hand of a gentile** is not acquired **until two** formal acts of acquisition have been performed, both pulling and payment of money. The Sages **said** in response: **Isn't it** indicated otherwise by **an *a fortiori*** inference: If **his person** is acquired **through** only **one** act of acquisition, could it be that **his property** must be acquired **through two** acts? The Gemara further suggests: **But** one can **say** that it is derived from the verse that one can acquire property from a gentile **either** through **this** method of pulling **or** through **that** method of money. The Gemara explains: The *halakha* derived from the phrase "of your counterpart" must be **similar to** an acquisition from **your counterpart:**

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מָה עֲמִיתֶךָ – בְּחֲדָא, אַף עוֹבֵד כּוֹכָבִים נַמִי - בְּחֲדָא.

Just as from the hand of **your counterpart** it is **with one** act, with pulling, **so too,** from the hand of **a gentile,** it is **also with one** act, **with money.**

אָמַר מָר: וְעוֹבֵד כּוֹכָבִים שֶׁנָּתַן מָעוֹת לְיִשְׂרָאֵל בִּבְהֶמְתּוֹ בְּדִינֵיהֶן, אַף עַל פִּי שֶׁלֹּא מָשַׁךְ - קָנָה וּפָטוּר מִן הַבְּכוֹרָה, מַאי בְּדִינֵיהֶן? אִילֵימָא בְּדִינֵיהֶן דְּגוּפֵיהּ, מִשּׁוּם דְּאָתֵי בְּקַל וָחוֹמֶר, אִם גּוּפוֹ יִשְׂרָאֵל קָנֵי לֵיהּ בְּכֶסֶף, דִּכְתִיב: מִכֶּסֶף מִקְנָתוֹ, מָמוֹנוֹ לֹא כָּל שֶׁכֵּן?

The Gemara discusses the statement of Rabbi Oshaya. **The Master said: And a gentile who gave money to a Jew to** buy the Jew's **animal** from him **according to their laws, even though** the gentile **did not pull** the animal **he has acquired** it, **and** the Jew **is** therefore **exempt from** giving the animal's **firstborn** offspring to a priest. **The Gemara clarifies: What is** the meaning of **according to their laws? If we say** that it means: **According to their laws of the person** of the Jew himself, i.e., the manner in which he purchases the person of a Jew with money, and it is reasonable to say so, **as it may be derived** through **an *a fortiori*** inference: **If** a gentile **acquires the body of a Jew with money, as it is written** in that regard: **"From the money of his purchase"** (Leviticus 25:51), then with regard to the **property** of a Jew, is it **not all the more so** reasonable that the gentile can acquire it with money?

יִשְׂרָאֵל מִישְׂרָאֵל יוֹכִיחַ, דְּגוּפוֹ - קָנֵי בְּכֶסֶף, מָמוֹנוֹ - בִּמְשִׁיכָה! אֶלָּא אָמַר אַבַּיֵי: בְּדִינֵיהֶם שֶׁפָּסְקָה לָהֶם תּוֹרָה, "וְכִי תִמְכְּרוּ מִמְכָּר לַעֲמִיתֶךָ", לַעֲמִיתֶךָ – בִּמְשִׁיכָה, הָא לְעוֹבֵד כּוֹכָבִים - בְּכֶסֶף;

This can be rejected, as the acquisition of **a Jew from a Jew will prove** that the inference is not valid, as the **person** of a Hebrew slave **one acquires with money, while the property** of a Jew can be acquired only **by pulling. Rather, Abaye said:** That which it states, that a gentile purchases an animal with money **according to their laws,** means: With the acts of acquisition **that the Torah prescribed** to gentiles, the manner in which they acquire items from Jews, i.e., with money, as it is stated: **"And if you sell a sale item to your counterpart"** (Leviticus 25:14), from which it may be inferred: **To your counterpart,** i.e., a Jew, property **is** acquired **by pulling,** but property **from the hand of a gentile** is acquired **with money.**

וְאֵימָא: לְעוֹבֵד כּוֹכָבִים כְּלָל כְּלָל לֹא! אָמְרִי: לָאו קַל וָחוֹמֶר הוּא? אִם גּוּפוֹ קָנָה, מָמוֹנוֹ לֹא כָּל שֶׁכֵּן?

The Gemara suggests: **But say** that the inference should be: **To a gentile, not at all,** i.e., neither with money nor with pulling can a gentile acquire an item from a Jew. The Sages **said** in response: **But isn't it an *a fortiori*** inference to the contrary: **If** a gentile can **purchase** a Jew's **person** as a slave, then is it **not all the more so** reasonable that he can purchase the Jew's **property?**

אֵימָא: לְעוֹבֵד כּוֹכָבִים עַד דְּאִיכָּא תַּרְתֵּי! לָאו קַל וָחוֹמֶר הוּא: גּוּפוֹ - בְּאֶחָד, מָמוֹנוֹ בִּשְׁתַּיִם?

The Gemara suggests: **Say** and infer as follows: To your counterpart you sell with pulling, **but to a gentile** you do not sell **until two** formal acts of acquisition have been performed: Pulling and money. The Sages **said** in response: **But isn't it an *a fortiori*** inference to the contrary: If the **person** of a Jew is acquired **with one** act of acquisition, is it reasonable that **his property** is acquired **with two** acts?

וְאֵימָא: אוֹ בְּהָא אוֹ בְּהָא? דּוּמְיָא דַּעֲמִיתֶךָ,

The Gemara further suggests: **But say** that a gentile acquires property from a Jew **either with this** act of pulling **or with that** act of **paying** money. The Gemara explains: The acquisition of the gentile must be **similar to** the acquisition of **your counterpart,** from which it is derived:

Perek **II**
Daf **13** Amud **b**

מָה עֲמִיתֶךָ בְּאַחַת – אַף גּוֹי נַמִי בְּאַחַת.

Just as property is acquired from **your counterpart through** only **one** act of acquisition, i.e., pulling, **so too,** property is acquired from **a gentile through** only **one** act of acquisition, i.e., payment of money.

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PERSONALITIES

Ameimar – אַמֵּימַר: Ameimar was one of the great Sages of the fifth and sixth generations of Babylonian *amora'im*. He was born and raised in Neharde'a, where he studied and taught Torah. It is likely that he also studied with the Sages of Pumbedita. The statements he cites are mainly from fifth-generation *amora'im*, students of Abaye and Rava. Apparently, Ameimar served as a rabbi and judge in Neharde'a, where he established various ordinances, but he also wielded influence in many other places, including Meḥoza. The leaders of the following generation, including Rav Ashi, were his disciples. He had a son named Mar, who studied from Rav Ashi during Ameimar's lifetime.

NOTES

By Torah law, money effects acquisition – דְּאָמַר דְּבַר תּוֹרָה מָעוֹת קוֹנוֹת: Unlike Reish Lakish, Rabbi Yoḥanan does not provide a source for his opinion. The commentaries suggest various reasons for it. Some say that the source is the inference that if a Jew's person can be acquired as a slave through payment of money alone, the same should certainly apply to acquisition of his property (Rabbeinu Ḥananel and Rif on *Bava Metzia* 47b). Others note that this *a fortiori* inference was rejected by the Gemara (see Ramban).

Rashi contends that the source is the verse: "And if he that sanctified the field will indeed redeem it, then he shall add the fifth part of the money of your valuation to it, and it shall be assured to him" (Leviticus 27:19). He explains that since consecrated property can be redeemed with money alone, it follows by *a fortiori* inference that regular property can be acquired in the same manner (see Rashi on *Eiruvin* 81b). *Tosafot* and others add a further verse as Rabbi Yoḥanan's source: "Or buy of your counterpart's hand" (Leviticus 25:14), as buying generally refers to payment of money in exchange for goods.

But you do not need to return the sum of exploitation to a gentile – וְאִי אַתָּה מַחֲזִיר אוֹנָאָה לְגוֹי: It should be noted that it is prohibited to intentionally exploit a gentile or employ deception in general (see *Ḥullin* 94a). But if a gentile was exploited unintentionally, one is not obligated return the sum of the exploitation (Rashash).

אָמְרִי: וּלְאַמֵּימַר, דְּאָמַר: מְשִׁיכָה בְּגוֹי קוֹנָה, הָנֵיחָא אִי סָבַר לָהּ כְּרַבִּי יוֹחָנָן, דְּאָמַר: דְּבַר תּוֹרָה מָעוֹת קוֹנוֹת, מְשִׁיכָה לֹא, אַהֲנֵי ״לַעֲמִיתֶךָ״ – לַעֲמִיתֶךָ בְּכֶסֶף, לְגוֹי – בִּמְשִׁיכָה.

The Sages **said: And according to** the opinion of **Ameimar,**[P] **who says** that **pulling effects acquisition in** the case of **a gentile, this works out well if he holds in accordance with** the opinion of **Rabbi Yoḥanan, who says: By Torah law, money effects acquisition,**[NH] but **pulling** does **not.** If Ameimar accepts Rabbi Yoḥanan's opinion, then it can be derived from the phrase **"of your counterpart"** that transactions **with your counterpart,** i.e., a Jew, are effected **through** payment of **money,** whereas transactions **with a gentile** are effected **by pulling.**

אֶלָּא אִי סָבַר לָהּ כְּרֵישׁ לָקִישׁ, דְּאָמַר: מְשִׁיכָה מְפוֹרֶשֶׁת מִן הַתּוֹרָה, לַעֲמִיתֶךָ – בִּמְשִׁיכָה, וּלְגוֹי – בִּמְשִׁיכָה, ״לַעֲמִיתֶךָ״ לָמָּה לִי?

But if Ameimar **holds in accordance with** the opinion of **Reish Lakish, who says:** The act of acquisition of **pulling is explicit in the Torah,** then the *halakha* is that transactions **with your counterpart** are effected **by pulling, and** transactions **with a gentile** are also effected **by pulling.** Accordingly, **why do I** need the phrase **"of your counterpart"?**

אָמְרִי: לַעֲמִיתֶךָ אַתָּה מַחֲזִיר אוֹנָאָה, וְאִי אַתָּה מַחֲזִיר אוֹנָאָה לְגוֹי. לְגוֹי, מַ״אַל תּוֹנוּ אִישׁ אֶת אָחִיו״ נָפְקָא!

The Sages **said** in explanation: The phrase "of your counterpart" does not teach a *halakha* with regard to the method of acquisition. Rather, it is referring to the latter part of the verse: "And if you make a sale to your counterpart, or buy of your counterpart's hand, a man shall not exploit his brother" (Leviticus 25:14). The verse is derived as follows: **You** must **return** the sum of **exploitation**[B] **to your counterpart, but you do not** need to **return** the sum of **exploitation to a gentile.**[NH] The Gemara rejects this suggestion: The exemption from returning the sum of exploitation **to a gentile is derived from** the latter part of the verse alone: **"A man shall not exploit his brother."** A gentile is not included in the category of "his brother." Accordingly, the phrase "of your counterpart" remains extraneous.

חַד בְּגוֹי וְחַד בְּהֶקְדֵּשׁ. וּצְרִיכִי: דְּאִי כְּתַב רַחֲמָנָא חַד, הֲוָה אָמִינָא: לְגוֹי הוּא דְּאֵין לוֹ אוֹנָאָה, אֲבָל הֶקְדֵּשׁ – יֵשׁ לוֹ אוֹנָאָה, קָא מַשְׁמַע לָן.

The Gemara responds: **One** phrase is required **to** exclude **a gentile, and one** serves **to** exclude **consecrated** property.[H] **And** both derivations **are necessary, as, had the Merciful One written** only **one** exclusionary phrase, **I would say: It is** with regard to transactions **with a gentile that one is not** subject to the prohibition of **exploitation; but** with regard to transactions involving **consecrated** property, **one is** subject to the prohibition of **exploitation.** Therefore, the other derivation **teaches us** that one is not subject to the prohibition of exploitation with regard to transactions involving consecrated property either.

HALAKHA

By Torah law, money effects acquisition – דְּבַר תּוֹרָה מָעוֹת קוֹנוֹת: By Torah law, all movable property is acquired through payment of money, and therefore once payment has been transferred neither party can renege on the deal. The Sages decreed that movable property can be acquired only through lifting or, where necessary, pulling. This ruling is in accordance with the opinion of Rabbi Yoḥanan; see *Bava Metzia* 47b (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 3:1; *Shulḥan Arukh*, *Ḥoshen Mishpat* 198:1).

But you do not need to return the sum of exploitation to a gentile – וְאִי אַתָּה מַחֲזִיר אוֹנָאָה לְגוֹי: One is not obligated to return the sum of exploitation paid by a gentile (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 13:7; *Shulḥan Arukh*, *Ḥoshen Mishpat* 227:26).

One phrase is required to exclude a gentile and one serves to exclude consecrated property – חַד בְּגוֹי וְחַד בְּהֶקְדֵּשׁ: The prohibition of exploitation does not apply to consecrated property. Accordingly, if in a transaction involving the Temple treasury, an item worth a single dinar was sold for one thousand dinars, or vice versa, the sum of the exploitation is not returned. The Rema cites an opinion that this is the *halakha* only when the sum of the exploitation is less than the value of the item (*Tur*, citing Rabbeinu Ḥananel and Rosh). If it was sold at twice its market price or more, the sum of the exploitation must be returned (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 13:8; *Shulḥan Arukh*, *Ḥoshen Mishpat* 227:29, and in the comment of Rema, and *Sma* there).

BACKGROUND

Exploitation – אוֹנָאָה: In monetary matters, this term refers to the prohibition against deceiving or taking unfair advantage of another in a business transaction (Leviticus 25:14). If either the buyer or the seller exploits the other, the wronged party has the right to be reimbursed according to the value of the article. By rabbinic law, the specific *halakhot* depend on the sum of the exploitation relative to the article's value. If the exploitation is greater than one-sixth of the article's value, the sale is nullified. If it is less than that amount, no money must be returned, as it is assumed that such a minor discrepancy is forgiven. If it is precisely one-sixth, the sale is effective but the difference between the price paid and the market value must be returned. A claim of exploitation can be submitted for only a limited period after a transaction, which is equal to the time it takes for the buyer to have the object appraised by an expert (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 12:5).

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הָנֵיחָא לְמַאן דְּאָמַר גְּזֵילוֹ אָסוּר – הַיְינוּ דְּאִצְטְרִיךְ קְרָא לְמִישְׁרֵי אוֹנָאָה. אֶלָּא אִי סָבַר לָהּ כְּמַאן דְּאָמַר גְּזֵילוֹ שֶׁל גּוֹי מוּתָּר, אוֹנָאָה מִיבָּעְיָא? אָמְרִי: אִי סָבַר לָהּ כְּמַאן דְּאָמַר גְּזֵילוֹ מוּתָּר – עַל כּוֹרְחֵיךְ כְּרַבִּי יוֹחָנָן סְבִירָא לֵיהּ.

The Gemara remarks: **This works out well according to the one who says** that **his robbery,** i.e., robbing a gentile,[N] is **prohibited,**[H] as **this is** the reason **that a verse is necessary to permit** keeping the sum of the **exploitation** obtained from a gentile. **But if** Ameimar **holds in accordance with** the opinion of **the one who says** that **his robbery is permitted, is it necessary** to state that one may keep the sum of the **exploitation** obtained from a gentile? The Gemara accepts this reasoning: The Sages **said: If** Ameimar **holds in accordance with** the opinion of **the one who says** that **his robbery is permitted, perforce he holds in accordance with** the opinion of **Rabbi** Yoḥanan that money effects acquisition by Torah law, and therefore the difficulty does not arise.

מֵיתִיבִי: הַלּוֹקֵחַ גְּרוּטָאוֹת מִן הַגּוֹיִם, וּמָצָא בָּהֶן עֲבוֹדָה זָרָה, אִם עַד שֶׁלֹּא נָתַן מָעוֹת מָשָׁךְ – יַחֲזִיר, וְאִם מִשֶּׁנָּתַן מָעוֹת מָשָׁךְ – יוֹלִיךְ הֲנָאָה לְיַם הַמֶּלַח.

§ The Gemara **raises an objection** to the opinion that property is acquired from a gentile by monetary payment. It is taught in a *baraita*: With regard to **one who buys broken vessels** [***gerutaot***][L] made of gold or silver **from the gentiles**[H] **and finds among them** an object of **idol worship, if he pulled** the object of idol worship, thereby performing an act of acquisition, **before he gave** the **money** to the gentile, **he may return** the object of idol worship to the gentile. But **if he pulled** it **after he gave** the **money** to the gentile, he may not return it. Since the idol's status was not revoked, he must **take** it and cast it **into the Dead Sea.**

וְאִי אָמַרְתְּ מָעוֹת קוֹנוֹת, מְשִׁיכָה לָמָּה לִי? הָכָא בְּמַאי עָסְקִינַן – שֶׁקִּיבֵּל עָלָיו לָדוּן בְּדִינֵי יִשְׂרָאֵל. אִי הָכִי, מָעוֹת לָמָּה לִי? הָכִי קָאָמַר: אַף עַל פִּי שֶׁנָּתַן מָעוֹת, אִי מָשַׁךְ – אִין, וְאִי לָא – לָא.

The Gemara explains the difficulty: **And if you say** that payment of **money acquires** items from gentiles, **why do I** need **pulling** in order to effect the Jew's acquisition of the idol? The Gemara answers: **Here we are dealing with** a case **where** the gentile **accepted upon himself to** have this transaction **adjudicated by Jewish law.** The Gemara raises an objection: **If so, why do I** need the payment of **money** in order to effect the Jew's acquisition of the idol? Pulling alone should be enough, in accordance with *halakha*. The Gemara explains that **this is what** the *baraita* **means: Even though** the Jew **gave money** to the gentile, the *halakha* still depends on the act of pulling: **If he pulled** the broken vessels, **yes,** he has acquired them, **and if not,** he has **not** acquired them.

אִי הָכִי, קַשְׁיָא רֵישָׁא! אֲמַר אַבַּיֵי: רֵישָׁא – מִשּׁוּם דְּאִיכָּא מִקַּח טָעוּת. אֲמַר לֵיהּ רָבָא: רֵישָׁא – מִשּׁוּם דְּאִיכָּא מִקַּח טָעוּת, סֵיפָא – לֵיכָּא מִקַּח טָעוּת?

The Gemara asks: **If so,** then **the first clause** of the *baraita* is **difficult,** as it states: If he pulled the object of idol worship before he gave the money to the gentile, he may return the object of idol worship to the gentile. Evidently, pulling alone does not effect acquisition. **Abaye said** in explanation: The *halakha* in **the first clause** is ruled as it is **because there is a mistaken transaction,** as the Jew did not wish to purchase the idol. **Rava said to** Abaye: You maintain that the *halakha* of **the first clause** is ruled as it is **because there is a mistaken transaction.** Is that to say that in **the latter clause there is no mistaken transaction?** After all, the Jew does not wish to purchase the idol in either case.

אֶלָּא אָמַר רָבָא: רֵישָׁא וְסֵיפָא – מִקַּח טָעוּת, רֵישָׁא דְּלָא יָהֵיב זוּזֵי – לָא מָיְחֲזֵי כַּעֲבוֹדָה זָרָה בְּיַד יִשְׂרָאֵל, סֵיפָא דְּיָהֵיב זוּזֵי – מָיְחֲזֵי כַּעֲבוֹדָה זָרָה בְּיַד יִשְׂרָאֵל.

Rather, Rava said: The purchase in **the first clause and** the purchase in **the latter clause** are both **a mistaken transaction, but** in the case presented in **the first clause, where** the Jew **did not pay** him the **dinars, it does not appear as** though there is an object of **idol worship in the possession of a Jew,** and so he may return it. By contrast, in **the latter clause, where** the Jew **did pay him the dinars, it appears as** though there is an object of **idol worship in the possession of a Jew,** and therefore he must cast away the object rather than return it.

וְאַבַּיֵי אָמַר לָךְ: רֵישָׁא – מִקַּח טָעוּת, דְּלָא יָדַע, דְּהָא לָא יָהֵיב לֵיהּ זוּזֵי; סֵיפָא – לָאו מִקַּח טָעוּת הוּא, דְּכֵיוָן דְּיָהֵיב זוּזֵי, כִּי קָא מָשֵׁיךְ – אִיבָּעֵי לְעַיּוֹנֵי וַהֲדַר מִימְשַׁךְ.

And Abaye could have **said to you: The first clause** involves **a mistaken transaction, as he did not know** that the idol was included, **as he did not give him the dinars** and therefore had not yet inspected the property being purchased. Conversely, **the latter clause is not** a case of **a mistaken transaction, as since he** already **gave the dinars** to the seller, **when he** came to **pull it, he should have inspected** the property **and then pulled it.** Since the Jew did not bother to inspect the property even after paying, the transaction is valid.

NOTES

Robbing a gentile – גְּזֵילוֹ שֶׁל גּוֹי: There is a dispute among the *tanna'im* as to whether or not robbing a gentile is prohibited by Torah law (see *Tosafot*). It is noted in the Jerusalem Talmud (*Bava Kamma* 4:3) that even Rabban Gamliel, who holds that by Torah law it is not prohibited, decreed that it is prohibited due to the desecration of God's name, as robbery is an egregious sin (see *Tosefta*, *Bava Kamma* 10:14). Many Sages maintain that it is, in fact, prohibited by Torah law to rob a gentile (see *Encyclopedia Talmudit*). Some maintain that because there is a prohibition by Torah law against harming others and causing suffering, no specific source is required for the prohibition against robbing gentiles (Maharshal). Even the verses cited as sources for this prohibition are meant only as supporting allusions (*Yam shel Shlomo* on *Bava Kamma*).

HALAKHA

His robbery is prohibited – גְּזֵילוֹ אָסוּר: It is prohibited to steal or withhold property from another in any amount. This is the *halakha* with regard to both a Jew and a gentile (Rambam *Sefer Nezikin*, *Hilkhot Gezeila VaAveda* 1:2; *Shulḥan Arukh*, *Ḥoshen Mishpat* 359:1).

One who buys broken vessels of gold or silver from the gentiles, etc. – הַלּוֹקֵחַ גְּרוּטָאוֹת מִן הַגּוֹיִם וכו': The *halakha* is in accordance with the ruling of the *baraita* according to Rava's interpretation. Consequently, if one purchases pieces of gold or silver from a gentile and finds an object of idol worship among them, he may return pieces to the seller if he has not yet pulled them. Similarly, if he pulled the gold or silver but has not yet paid for it, he may return the pieces despite the fact that pulling generally effects acquisition, as this is considered a mistaken transaction. Once the pieces have been pulled and paid for, the buyer must dispose of the prohibited object (Rambam *Sefer HaMadda*, *Hilkhot Avoda Zara* 7:5 and see *Leḥem Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 146:3).

LANGUAGE

Broken vessels [*gerutaot*] – גְּרוּטָאוֹת: From the Greek γρύτη, *grutē*, meaning a collection of items of little value or the container in which these items are placed. In talmudic usage it can also mean pieces of vessels and scraps of metal.

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רַב אַשִׁי אָמַר: מִדְּרֵישָׁא מְשִׁיכָה אֵינָהּ קוֹנָה – סֵיפָא נַמִּי מְשִׁיכָה אֵינָהּ קוֹנָה; וְאַיְידֵי דְּתְנָא רֵישָׁא ״מָשַׁךְ״ – תְּנָא סֵיפָא נַמִּי ״מָשַׁךְ״.

The Gemara cites two more interpretations of the *baraita*. **Rav Ashi says:** The *baraita* is in fact discussing a case where the transaction was subject to gentile law, according to which only monetary payment effects acquisition, and as for the aforementioned difficulty raised to the opinion of Rabbi Oshaya from the latter clause: If so, why do I need pulling in order to effect the Jew's acquisition of the idol; pulling is not in fact required. Rather, **from** the fact that in **the first clause, pulling does not effect acquisition,** in **the latter clause too, pulling does not effect acquisition. But since the first clause taught** the word: **Pulled,** in order to teach that this method is ineffective, **the latter clause also taught** the word: **Pulled,** despite the fact that its mention is unnecessary.

רָבִינָא אָמַר: מִדְּסֵיפָא מְשִׁיכָה קוֹנָה – רֵישָׁא נַמִּי מְשִׁיכָה קוֹנָה. וְרֵישָׁא הָכִי קָאָמַר: אִם לֹא נָתַן וְלֹא מָשַׁךְ – יַחֲזוֹר; מַאי ״יַחֲזוֹר״ – יַחֲזוֹר בִּדְבָרִים.

Ravina said: The *baraita* is discussing a case where it was agreed that the transaction would be subject to Jewish law. **From** the fact that in **the latter clause, pulling effects acquisition,** in **the first clause too, pulling effects acquisition. And** as for the difficulty with regard to **the first clause,** which states that the Jew may return the item even though he already pulled it, **this** is what the *baraita* **is saying: If** the buyer **did not give** the money to the gentile **and** also **did not pull** the item, **he returns** the item to the seller. The Gemara adds: **What** does the term: **Returns,** mean in this context? It means that the Jew **returns,** i.e., reneges, **on** his **verbal** commitment. In other words, he is not required to complete the purchase despite the fact he initially agreed to do so.

קָסָבַר: דְּבָרִים, יֵשׁ בָּהֶם מְשׁוּם מְחוּסְרֵי אֲמָנָה; וְהָנֵי מִילֵּי – יִשְׂרָאֵל מִישְׂרָאֵל, דְּקָיְימוּ בְּדִבּוּרַיְיהוּ; אֲבָל יִשְׂרָאֵל מִגּוֹיִם, דְּאֵינְהוּ לָא קָיְימִי בְּדִבּוּרַיְיהוּ – לָא.

The Gemara elaborates: It was necessary for the *tanna* to teach this explicitly, as **he holds:** Reneging on **a verbal** commitment that was unaccompanied by an act of acquisition **constitutes an act of bad faith**[NH] between two parties. **And** he holds that **this statement** applies only to a case where **a Jew** purchases an item **from** another **Jew, as they** are assumed to **uphold their verbal** commitments. **But** in a case of **a Jew** who purchases an item **from gentiles, as they** are **not** assumed **to uphold their verbal** commitments, reneging on one's word does **not** constitute an act of bad faith between the parties, since neither party relies upon the commitment of the other in the first place.

NOTES

Consitutes an act of bad faith – יֵשׁ בָּהֶם מְשׁוּם מְחוּסְרֵי אֲמָנָה: It is a halakhically accepted convention that once money has been paid to make a purchase, one should not renege on the deal even if the item has not yet been acquired through a formal act of acquisition. Although this convention is not technically binding, one who reneges is subject to the Sages' curse: He who exacted payment from the members of the generation of the flood and from the generation of the dispersion, i.e., the tower of Babel, will exact payment from whoever does not stand by his statement (see *Bava Metzia* 44a).

There is a dispute among the *amora'im* with regard to the *halakha* in a case where payment was not yet transferred, but there was a verbal agreement. According to Rav, in such a case no obligation exists between the two parties. Rabbi Yoḥanan contends that even if there has been no payment, one who has entered into a verbal agreement with another should not go back on his word, and the Sages are displeased with one who does renege (*Bava Metzia* 48a).

Nevertheless, Rabbi Yoḥanan concedes that if the other party does not rely on one's word in the first place, then violation of the verbal agreement does not constitute an act of bad faith. For example, if a buyer agrees to purchase an item for an extraordinarily excessive price, it is assumed that the seller does not genuinely depend upon his word, and the agreement is therefore not binding from the outset (see *Bava Metzia* 49a). In this case too, as the gentile does not consider the verbal agreement binding, the Jew may renege on the deal.

HALAKHA

Constitutes an act of bad faith – יֵשׁ בָּהֶם מְשׁוּם מְחוּסְרֵי אֲמָנָה: If there is a verbal agreement between two parties, each of them should keep their word even if no formal steps have been taken to secure the transaction. Although one who does renege on the deal does not transgress any prohibition and is not subjected to the Sages' curse, the Sages are displeased with his behavior (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 7:8; *Shulḥan Arukh*, *Ḥoshen Mishpat* 204:7).

Perek **II**
Daf **14** Amud **a**

מתני׳ כָּל הַקָּדָשִׁים שֶׁקָּדַם מוּם קָבוּעַ לְהֶקְדֵּשָׁן וְנִפְדּוּ – חַיָּבִין בִּבְכוֹרָה וּבְמַתָּנוֹת, וְיוֹצְאִין לְחוּלִּין לִיגָּזֵז וְלֵיעָבֵד, וְלָדָן וַחֲלָבָן מוּתָּר לְאַחַר פִּדְיוֹנָן,

MISHNA **All sacrificial** animals in **which a permanent blemish preceded their consecration** do not assume inherent sanctity and only their value is consecrated, **and** once **they were redeemed,** they **are obligated in** the mitzva of **a firstborn,** i.e., their offspring are subject to being counted a firstborn, **and in the** priestly **gifts**[H] of the foreleg, the jaw, and the maw, **and they can emerge** from their sacred status and assume complete **non-sacred** status in order **to be shorn and to be utilized for labor.**[H] And **their offspring and their milk are permitted after their redemption.**

HALAKHA

They are obligated in the mitzva of a firstborn and in the priestly gifts – חַיָּבִין בִּבְכוֹרָה וּבְמַתָּנוֹת: All sacrificial animals whose blemish preceded their consecration and were later redeemed are subject to the *halakhot* of the firstborn and the mitzva of giving the gifts to the priest (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:8 and *Sefer Zera'im*, *Hilkhot Bikkurim* 9:2).

And they can emerge from their sacred status…in order to be shorn and to be utilized for labor, etc. – וְיוֹצְאִין...לִיגָּזֵז וְלֵיעָבֵד וכו': A permanently blemished animal that was consecrated for the altar may not be shorn or used for labor, by rabbinic law. If it was redeemed, it loses its sacred status entirely and may be shorn and used for labor, and its offspring are also non-sacred (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:9 and *Hilkhot Issurei Mizbe'aḥ* 1:11).

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וְהַשּׁוֹחֵט בַּחוּץ פָּטוּר, וְאֵין עוֹשִׂין תְּמוּרָה, וְאִם מֵתוּ – יִפָּדוּ, חוּץ מִן הַבְּכוֹר וּמִן הַמַּעֲשֵׂר.

And one who slaughters them outside the Temple courtyard is **exempt** from *karet*, **and** those animals **do not render** an animal that was **a substitute**[B] for them consecrated.[H] **And if** these animals **died** before they were redeemed, **they may be redeemed**[H] and fed to dogs, and they do not require burial, **except for the firstborn and the** animal **tithe.**[HN] With regard to these two types of offerings, even if they were blemished before they became consecrated they assume inherent sanctity, like other offerings that were consecrated and subsequently became blemished.

וְכָל שֶׁקָּדַם הֶקְדֵּשָׁן אֶת מוּמָן, אוֹ מוּם עוֹבֵר לְהֶקְדֵּשָׁן, וּלְאַחַר מִכָּאן נוֹלַד לָהֶן מוּם קָבוּעַ לְהֶקְדֵּשָׁן וְנִפְדּוּ – פְּטוּרִין מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת, וְאֵינָן יוֹצְאִין לְחוּלִּין לִיגָּזֵז וְלֵיעָבֵד,

And all sacrificial animals **whose consecration preceded their blemish, or** who had **a temporary blemish** prior **to their consecration and afterward developed a permanent blemish and they were redeemed, they are exempt from,** i.e., their offspring are not counted, **a firstborn, and from the gifts**[H] of the foreleg, the jaw, and the maw, **and they do not** completely **emerge** from their sacred status and assume **non-sacred** status in order **to be shorn and to be utilized for labor.**

וְלָדָן וַחֲלָבָן אָסוּר לְאַחַר פִּדְיוֹנָן, וְהַשּׁוֹחֲטָן בַּחוּץ חַיָּיב, וְעוֹשִׂין תְּמוּרָה, וְאִם מֵתוּ – יִקָּבְרוּ.

And **their offspring,**[H] which were conceived prior to redemption, **and their milk, are prohibited after their redemption. And one who slaughters them outside** the Temple courtyard is **liable**[N] to receive *karet*, **and** those animals **render** an animal that was **a substitute** for them consecrated.[H] **And if** these animals **died**[N] before they were redeemed, they may not be redeemed and fed to dogs; rather, **they must be buried.**[H]

BACKGROUND

Substitute – תְּמוּרָה: The act of substitution is mentioned in the Torah (see Leviticus 27:10), and a tractate of the Mishna, *Temura*, focuses on this *halakha*. The Torah prohibits the substitution of another animal for any offering, whether that offering is unblemished or blemished. One who performs an act of substitution violates a prohibition and receives lashes as a punishment. Nevertheless, despite the fact that this attempted exchange is prohibited, if an act of substitution is performed, the second animal does acquire a measure of sanctity, while the initial animal also remains sacred. This applies to all animals used as substitutes, whether they are unblemished or blemished, and the animal designated as a substitute can never be used for labor or redeemed. The fate of the substitute varies with the particular type of offering. In some instances, e.g., a substitute for a sin offering, the animal is left to die. In other cases, such as a guilt offering, the animal is put out to graze until it becomes blemished. Lastly, some substitutes, e.g., that of a peace offering, are consecrated for the altar in addition to the original animal.

HALAKHA

And those animals do not render an animal that was a substitute for them consecrated – וְאֵין עוֹשִׂין תְּמוּרָה: A permanently blemished animal that one consecrated cannot render an animal that was substituted for it consecrated. The reason is that only its value was sanctified, not its body (Rambam *Sefer Korbanot*, *Hilkhot Temura* 1:13).

And if they died before they were redeemed they may be redeemed – וְאִם מֵתוּ יִפָּדוּ: If one consecrated a permanently blemished animal, it can be redeemed even after it dies, as the sanctity did not take effect upon its body but only its value (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:11).

Except for the firstborn and the animal tithe – חוּץ מִן הַבְּכוֹר וּמִן הַמַּעֲשֵׂר: Firstborn animals and animal tithe possess inherent sanctity and never emerge from their sacred status. It remains prohibited to shear them or use them for labor even if they have a permanent blemish (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:9).

Are exempt from a firstborn and from the gifts – פְּטוּרִין מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת: The owner of an animal that developed a permanent blemish after its consecration is exempt from the mitzva of accounting its offspring a firstborn and from giving the priestly gifts. The reason is that the animal has not lost its sacred status, as it remains prohibited to shear it or use it for labor (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:8 and *Sefer Zera'im*, *Hilkhot Bikkurim* 9:2).

Their offspring, etc. – וְלָדָן וכו': The offspring of an animal that developed a permanent blemish after its consecration is prohibited and cannot be redeemed, if it was conceived before the mother was redeemed (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:11).

And those animals render an animal that was a substitute for them consecrated – וְעוֹשִׂין תְּמוּרָה: An animal that developed a permanent blemish after its consecration and that was redeemed renders an animal that was substituted for it consecrated (Rambam *Sefer Korbanot*, *Hilkhot Temura* 3:4).

And if they died they must be buried – וְאִם מֵתוּ יִקָּבְרוּ: An animal that developed a permanent blemish after its consecration and then died is not redeemed after death and must be buried, as it cannot be stood before a priest and appraised (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:11).

NOTES

Except for the firstborn and the animal tithe – חוּץ מִן הַבְּכוֹר וּמִן הַמַּעֲשֵׂר: These offerings are inherently sacred, even if they are blemished. As such, they can neither be sacrificed, on account of their blemish, nor redeemed (see Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:9). A blemished firstborn animal or animal tithe is eaten by the priest or owner, respectively.

The commentaries explain that a blemished firstborn possesses inherent sanctity because unlike other consecrated animals, its consecration is intrinsic rather than imposed by a person (Rambam; Rabbeinu Gershom Meor HaGola). Others state that the reason is that the sanctity of the firstborn takes effect while it is still in the womb, whereas the disqualification of a blemish applies only after birth (*Reshit Bikkurim*). The *halakha* that the animal tithe possesses inherent sanctity is a Torah edict.

And one who slaughters them outside the Temple courtyard is liable – וְהַשּׁוֹחֲטָן בַּחוּץ חַיָּיב: This statement is difficult, as one who slaughters an animal outside the Temple courtyard is exempt if that animal is unfit to be sacrificed upon the altar (see *Zevaḥim* 112b). The commentaries therefore explain that the mishna is referring to animals which possess only minor blemishes, such as on the cornea of the eye, as these are accepted after the fact if they were sacrificed upon the altar, and consequently one incurs liability for slaughtering them outside the Temple courtyard (Rashi on 16a). The Rambam has a different version of the text, which reads: One who slaughters them outside the Temple courtyard is exempt.

And if these animals died, etc. – וְאִם מֵתוּ וכו': These animals may not be redeemed, and therefore they must be buried so that one will not mistakenly derive benefit from them. The Gemara provides two reasons as to why one may not redeem them. First, it is inappropriate to redeem a consecrated animal for the purpose of leaving it to dogs. Additionally, there is a Torah edict that consecrated property must be stood before and appraised by a priest before it is redeemed, and it is not possible to do this with a dead animal.

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HALAKHA

Sanctity that inheres in an animal's value defers from the mitzva of the firstborn – **קְדוּשַּׁת דָּמִים מִן הַבְּכוֹרָה:** The mitzva of accounting a firstborn does not apply to consecrated animals, whether they have been consecrated for the altar or for Temple maintenance (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:5).

גמ׳ טַעֲמָא דִּנְפִדּוּ, הָא לָא נִפְדּוּ – פְּטוּרִין מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת. קָסָבַר: קְדוּשַּׁת דָּמִים מַדְּחָה מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת.

GEMARA The mishna teaches that all animals that were blemished prior to their consecration are subject to their offspring being counted a firstborn and to the obligation of the gifts once they have been redeemed. The Gemara infers: **The reason** that they are subject to the obligations of a firstborn and the gifts is **that they were redeemed. But if they were not redeemed, they are exempt from** their offspring being counted **a firstborn and from the** obligation of the priestly **gifts.** The Gemara comments: This indicates that the *tanna* of the mishna **holds: Sanctity** that inheres in an animal's **value defers,** i.e., renders it exempt, **from** the mitzva **of the firstborn**[H] **and from the gifts.**[N]

״וְיוֹצְאִין לְחוּלִּין״ וכו׳. טַעֲמָא דִּנְפִדּוּ, הָא לָא נִפְדּוּ – אֲסִירִי בִּגְיָזָה וַעֲבוֹדָה. מְסַיַּיע לֵיהּ לְרַבִּי אֱלִיעֶזֶר, דְּאָמַר: קָדְשֵׁי בֶדֶק הַבַּיִת אֲסוּרִין בִּגְיָזָה וַעֲבוֹדָה?

§ The mishna further teaches: **And they can emerge** from their sacred status and assume complete **non-sacred** status in order to be shorn and to be utilized for labor. The Gemara infers: **The reason** they become non-sacred is **that they were redeemed. But if they were not redeemed,** they remain sacred and **are prohibited with regard to shearing and labor.** The Gemara notes: **This supports** the opinion **of Rabbi Eliezer, who says:** Animals **consecrated for the Temple maintenance are prohibited with regard to shearing and labor.**[N] Since animals consecrated for the Temple maintenance are equivalent to animals that possess sanctity that inheres in their value, the mishna supports Rabbi Eliezer's opinion.

אָמְרִי: לָא, קְדוּשַּׁת דָּמִים לַמִּזְבֵּחַ הוּא דְּמִיחַלְפָא בִּקְדוּשַּׁת הַגּוּף לַמִּזְבֵּחַ – גָּזְרוּ בְּהוּ רַבָּנַן, אֲבָל קָדְשֵׁי בֶדֶק הַבַּיִת – לָא.

The Gemara rejects this suggestion: The Sages **said: No;** the mishna does not necessarily support the opinion of Rabbi Eliezer. It is possible that **it is** only with regard to an animal that has **sanctity** that inheres in its **value** and that was consecrated **for the altar, which** can be mistakenly **exchanged** with an animal that possesses **inherent sanctity** and was likewise consecrated **for the altar,** that **the Sages decreed** that it is prohibited to shear it and perform labor **with it,** due to a concern that one might confuse it with an animal that possesses inherent sanctity and ultimately violate a Torah prohibition. **But** with regard to animals **consecrated for the Temple maintenance, no** such decree was issued, as this concern does not apply.

״וְוַלְדָן וַחֲלָבָן מוּתָּר״ כו׳. הֵיכִי דָּמֵי? אִילֵימָא דְּאִיעַבַּר וְאִתְיְלִיד לְאַחַר פִּדְיוֹנָן – פְּשִׁיטָא, חוּלִּין נִינְהוּ! אֶלָּא דְּאִיעַבַּר לִפְנֵי פִּדְיוֹנָן, וְאִתְיְלִיד לְאַחַר פִּדְיוֹנָן;

§ The mishna teaches that **their offspring and their milk are permitted** after their redemption. The Gemara asks: **What are the circumstances** of the case of the mishna, in which the offspring of blemished redeemed animals are permitted? **If we say** that the mishna is referring to a case **where** the animals **became pregnant and gave birth after their redemption,** then it is **obvious** that the offspring are permitted, as **they are non-sacred** animals from the moment of conception. **Rather,** it must be referring to a case **where they became pregnant before their redemption, and gave birth after their redemption,** and the mishna is teaching that the offspring are permitted despite the fact they were conceived while their mothers were consecrated.

הָא לִפְנֵי פִּדְיוֹנָן – אֲסִירִי.

The Gemara infers from this ruling: **But** if the animals gave birth **before their redemption,** the offspring **are prohibited** until they are redeemed.

NOTES

Sanctity that inheres in an animal's value defers from the mitzva of the firstborn and from the gifts – קְדוּשַּׁת דָּמִים מַדְּחָה מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת: Rashi explains (*Ḥullin* 130a) that this is due to the principle: Sanctity does not take effect where sanctity already exists. Since the animal already possessed sanctity that inheres in its value, it is not imbued with the sanctity of the firstborn. Others write that the reason is that this animal has been consecrated and belongs to the Temple, whereas these obligations apply only to an animal that belongs to an Israelite (*Tosafot*).

Animals consecrated for the Temple maintenance are prohibited with regard to shearing and labor, etc. – קָדְשֵׁי בֶדֶק הַבַּיִת אֲסוּרִין בִּגְיָזָה וַעֲבוֹדָה וכו׳: It can be inferred from here that by Torah law, shearing and labor are prohibited only in the case of an animal that possesses inherent sanctity; if it has sanctity that inheres in its value, the prohibition is by rabbinic law. The early commentaries are puzzled by this conclusion, as there is a prohibition by Torah law against misusing and deriving benefit from any consecrated property. Therefore, they explain that there is a difference between the prohibition against misusing consecrated property and the prohibition against shearing a consecrated animal: Misuse is prohibited only where one derives benefit, whereas shearing is prohibited even if one does not benefit at all (see Rosh 1:11). Accordingly, the Gemara is referring to a case where one paid the value of the shorn wool to the Temple, or if he derived benefit worth less than one *peruta* from the wool, when there is no liability for misuse (*Shita Mekubbetzet*).

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נִפְדִּין תְּמִימִים אוֹ אֵין נִפְדִּין תְּמִימִין?

The *halakha* is that the offspring of an animal that possesses inherent sanctity is born sanctified, and therefore it cannot be redeemed until it develops a blemish. The Gemara asks: With regard to the offspring of an animal that possesses sanctity that inheres in its value, **are they redeemed unblemished,**[H] **or are they not redeemed unblemished?** In other words, can they be redeemed immediately, or must one wait until they develop a blemish?

תָּא שְׁמַע: הַמַּתְפִּיס בַּעֲלֵי מוּמִין קְבוּעִין לְגִבֵּי מִזְבֵּחַ וְיָלְדוּ – יִמָּכְרוּ וְאֵין צְרִיכִין מוּם, שֶׁאֵין קְדוּשָּׁה חָלָה עֲלֵיהֶן, שֶׁלֹּא יְהֵא טָפֵל חָמוּר מִן הָעִיקָּר.

The Gemara suggests: **Come** and **hear** a proof from a *baraita*: With regard to **one who dedicates permanently blemished** animals **for the altar, and** those animals **gave birth,** their offspring **may be sold** in order to be redeemed **and they do not require a blemish** to render their sale permitted. The reason is **that they are not imbued with sanctity,** and **that the subsidiary** sanctity of the offspring should **not be** more **stringent than the primary** sanctity of the mother. Since the blemished mother can be redeemed without delay, the same applies to its offspring. This proves that the offspring of animals that possess sanctity that inheres in their value may be redeemed.

טַעֲמָא – שֶׁלֹּא יְהֵא טָפֵל חָמוּר מִן הָעִיקָּר, אֲבָל הִקְדִּישׁ זָכָר לְדָמָיו – קָדוֹשׁ קְדוּשַּׁת הַגּוּף. מְסַיַּיע לֵיהּ לְרָבָא, דְּאָמַר רָבָא: הִקְדִּישׁ זָכָר לְדָמִים – קָדוֹשׁ קְדוּשַּׁת הַגּוּף.

The Gemara notes: **The reason** that the *baraita* rules that the sanctity for the altar does not take effect is **that the subsidiary** sanctity should **not be** more **stringent than the primary** sanctity, i.e., the only reason it is not sanctified for the altar is because its sanctity is derived from its mother, which cannot be sanctified for the altar as it is blemished. **But** if **one consecrated** an unblemished **male** animal **for its value,**[N] where there is no secondary consecration, **it is sanctified with inherent sanctity.** The Gemara adds that **this supports** the opinion **of Rava, as Rava says:** If **one consecrated a male** animal **for its value,**[H] **it is sanctified with inherent sanctity.**

וְהַשּׁוֹחֲטָן בַּחוּץ פָּטוּר". רַבִּי אֶלְעָזָר מַתְנֵי: "חַיָּיב", וּמוֹקֵי לָהּ בְּבָמַת יָחִיד.

§ The mishna teaches with regard to animals whose blemish preceded their consecration: **And one who slaughters them outside** the Temple courtyard is **exempt.** The Gemara notes that **Rabbi Elazar teaches** the mishna as follows: And one who slaughters them outside the Temple courtyard is **liable, and he interprets** the mishna as **referring to** a case of a private **altar of an individual.**[B] In other words, the mishna is not teaching that one is liable to receive *karet* for slaughtering an animal outside the Temple courtyard, but that he is liable to receive lashes for sacrificing a blemished animal upon a private altar.

דְּאָמַר רַבִּי אֶלְעָזָר: מִנַּיִן לַזּוֹבֵחַ בְּהֶמָה בַּעֲלַת מוּם בְּבָמַת יָחִיד בְּשָׁעַת הֶיתֵּר הַבָּמוֹת, שֶׁהוּא בִּלְאו תַּעֲשֶׂה? שֶׁנֶּאֱמַר: "לֹא תִזְבַּח לַה' אֱלֹהֶיךָ שׁוֹר וָשֶׂה", אִם אֵינוֹ עִנְיָן לְבָמָה גְּדוֹלָה, דִּכְתִיב: "עִוֶּרֶת אוֹ שָׁבוּר" וגו' – תְּנֵהוּ עִנְיָן לְבָמַת יָחִיד.

As Rabbi Elazar says: From where is it derived **that one who slaughters a blemished animal upon** a private **altar of an individual at a time when** private **altars are permitted is in** violation of **a prohibition?** It is derived from a verse, **as it is stated: "You shall not sacrifice to the Lord an ox, or a sheep,** in which is a blemish" (Deuteronomy 17:1). **If** this verse **is not** referring **to** the **matter of a great** public **altar,** since that *halakha* is derived from a different verse, **as it is written: "Blind or broken** … you shall not sacrifice these unto the Lord" (Leviticus 22:22), **apply** the verse in Deuteronomy to the **matter of**[B] a private **altar of an individual.**

אִיתְמָא: אִם אֵינוֹ עִנְיָן לְקָדָשִׁים – תְּנֵהוּ עִנְיָן לִבְכוֹר; סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וְקָדוֹשׁ בְּשֶׁהוּא בַּעַל מוּם – לִיקָרֵב נַמִי כְּשֶׁהוּא בַּעַל מוּם, קָא מַשְׁמַע לָן דְּלָא!

The Gemara raises an objection: But one can **say** with regard to the verse in Deuteronomy: **If** this verse **is not** referring **to** the **matter of** regular **sacrificial** animals, which is derived from the verse in Leviticus, **apply it** to the **matter of a firstborn,** as it might **enter your mind to say: Since** a firstborn animal **is sanctified** even **when it is** a permanently **blemished** animal, **let it also be sacrificed** upon the altar **when it is a blemished animal.** The verse in Deuteronomy would therefore **teach us that** this is **not** the *halakha*, i.e., a blemished firstborn animal may not be sacrificed upon the altar. What, then, is the reason that the *halakha* of a private altar of an individual, rather than the *halakha* of firstborn animals, is derived from the verse in Deuteronomy?

HALAKHA

Redeemed unblemished – נִפְדִּין תְּמִימִים: With regard to a permanently blemished animal that one consecrated, its offspring may be redeemed despite the fact that the offspring does not have a blemish. The reason is that its subsidiary sanctity is no more stringent than the primary consecration of its mother (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:11).

If one consecrated a male animal for its value – הִקְדִּישׁ זָכָר לְדָמִים: An unblemished animal that is consecrated for its value is invested with inherent sanctity and must itself be sacrificed upon the altar, in accordance with the opinion of Rava (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 5:14).

NOTES

If one consecrated a male animal for its value – הִקְדִּישׁ זָכָר לְדָמָיו: Rashi explains, based on *Temura* 19b, that this is referring to a case where one consecrates the value of a male animal, with the money from its sale to be used for the purchase of burnt offerings. The Gemara rules that in such a case the animal itself is sacrificed as a burnt offering. Rashi adds that the Gemara specifies a male animal because his intent is to use the value for a burnt offering, which must be male. Similarly, if one consecrated the value of a female animal to be used to purchase a peace offering, that animal itself would be sacrificed as peace offering.

Others maintain that this is referring to a case where one consecrates his property without specifying the purpose. In such circumstances, the male unblemished animals are sacrificed as burnt offerings whereas the female animals are sold to be used as peace offerings, and the money from the sale is used to purchase male animals for burnt offerings (Rosh).

BACKGROUND

Private altar of an individual – בָּמַת יָחִיד: The Torah (Deuteronomy 12:8–14) commands that once the Jewish people entered Eretz Yisrael, offerings were to be sacrificed only in the place chosen by God. Accordingly, once the Temple was built in Jerusalem, offerings could be brought only on the altar in the Temple. Nevertheless, before the First Temple was built, there were periods when it was permitted to sacrifice offerings on private altars. Throughout the First Temple period, it was very difficult to end this practice, and people continued to sacrifice on such altars even after the Temple was built.

If this verse is not referring to the matter of…apply it to the matter of – אִם אֵינוֹ עִנְיָן… תְּנֵהוּ עִנְיָן: This form of reasoning is one of the thirty-two hermeneutical principles of Rabbi Eliezer, son of Rabbi Yosei. According to most commentaries, the conclusions drawn from them are authoritative as though they were explicitly written in the Torah. This principle is based on the superfluity of verses in the context in which they are written. While the verse is applied to another matter, it is never applied to matters totally unrelated to the meaning of the verse.

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BACKGROUND

Tanna of the school of Rabbi Yishmael – תַּנָּא דְּבֵי רַבִּי יִשְׁמָעֵאל: Even when writing the Oral Torah was permitted, most of it was not initially recorded. Some say that the Mishna itself was not written at the time of its redaction. Therefore, many rabbinic statements, such as the *Tosefta* and other *baraitot*, were preserved and transmitted orally. Each Sage was expected to commit the entire Mishna and a significant number of other tannaitic statements to memory. Complete mastery of all of these sources was the province of certain scholars called *tanna'im*, who were experts at memorization and could therefore recall massive amounts of material and recite it on demand. Often, the most prominent of these *tanna'im* were affiliated with the specific study hall of one of the Sages, where they served as living anthologies of this material.

NOTES

Only your sacred items, etc. – רַק קָדָשֶׁיךָ וכו': Since the primary mitzva of sacrificing offerings upon the altar was already discussed throughout this chapter of the Torah, the school of Rabbi Yishmael interprets this verse as referring to other offerings that were brought to the Temple.

אָמְרִי: בְּכוֹר בְּהֶדְיָא כְּתִיב בֵּיהּ: ״פִּסֵּחַ אוֹ עִוֵּר לֹא תִזְבָּחֶנּוּ״.

The Sages **said** in explanation: Concerning **a firstborn,** the *halakha* is **written explicitly with regard to it:** "Every firstborn… if there be any blemish therein, **lameness, or blindness… you shall not sacrifice it"** (Deuteronomy 15:19–21). Consequently, the verse in Deuteronomy, chapter 17, cannot be referring to the *halakha* that a firstborn animal may not be sacrificed upon the altar, as that is already taught in chapter 15.

וְאֵימָא: אִם אֵינוֹ עִנְיָן לְקָדָשִׁים – תְּנֵהוּ עִנְיָן לְמַעֲשֵׂר; דְּסָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וְקָדוֹשׁ בְּמוּמוֹ, דִּכְתִיב: ״לֹא יְבַקֵּר בֵּין טוֹב לָרָע״ – נִקְרַב נַמִי בְּמוּמֵיהּ, קָא מַשְׁמַע לָן דְּלָא!

The Gemara inquires: **But** still, one can **say: If** the verse in chapter 17 **is not** referring **to** the **matter of sacrificial** animals, which is derived from the verse in Leviticus, **apply it to** the **matter of** the animal **tithe, as** it might **enter your mind to say: Since** a tithed animal is **sacred** even **with its blemish, as it is written: "He shall not inquire whether it be good or bad"** (Leviticus 27:33), **let it also be sacrificed with its blemish.** The verse in Deuteronomy (17:1) would therefore **teach us that** this is **not** the *halakha*, i.e., a blemished tithed animal may not be sacrificed upon the altar.

אָמְרִי: מַעֲשֵׂר נַמִי, גָּמַר הַעֲבָרָה הַעֲבָרָה מִבְּכוֹר.

The Sages **said** in response: With regard to the animal **tithe as well,** it is unnecessary for the verse to teach this *halakha*, as it is **derived from** a verbal analogy between the word: **Passing,** mentioned with regard to tithed animals (see Leviticus 27:32), and **passing** mentioned with regard to **the firstborn** (see Exodus 13:12). Just as a blemished firstborn animal is not sacrificed upon the altar, so too, a blemished tithed animal is not sacrificed upon the altar.

אֵימָא: תְּנֵהוּ עִנְיָן לְתָמוּרַת קָדָשִׁים; דְּסָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וּקְדוֹשָׁה כְּשֶׁהִיא בַּעֲלַת מוּם, דִּכְתִיב: ״לֹא יַחֲלִיפֶנּוּ וְלֹא יָמִיר אוֹתוֹ״ וגו' – קָרֵיבָה נַמִי כְּשֶׁהִיא בַּעֲלַת מוּם, קָא מַשְׁמַע לָן דְּלָא!

The Gemara persists: But **say** that one should **apply** Deuteronomy 17:1 **to** the **matter of** animals **substituted for sacrificial** animals, **as** it might **enter your mind to say: Since** a substitute becomes **sacred** even **when it is blemished, as it is written: "He shall not exchange it, nor substitute it,** a good for a bad, or a bad for a good; and if he shall at all substitute animal for animal, then both it and that for which it is substituted shall be holy" (Leviticus 27:10), **it may likewise be sacrificed when it is blemished.** The verse in Deuteronomy would therefore **teach us that** this is **not** the *halakha*, as a blemished substitute cannot be sacrificed upon the altar.

אָמַר קְרָא: ״וְהָיָה הוּא וּתְמוּרָתוֹ״ – מַקִּישׁ תְּמוּרָתוֹ לוֹ, מָה הוּא – בַּעַל מוּם לֹא, אַף תְּמוּרָתוֹ – בַּעַל מוּם לֹא.

The Gemara answers: The *halakha* with regard to a substitute is already established, as **the verse states: "It and that for which it is substituted** shall be holy." The verse **compares a substitute to** the consecrated animal for which it was substituted: **Just as** the consecrated animal is **not** sacrificed if it is **blemished, so too, its substitute** is **not** sacrificed if it is **blemished.**

מַתְקִיף לָהּ רַבִּי זֵירָא, אֵימָא: תְּנֵהוּ עִנְיָן לִוְלָדוֹת קָדָשִׁים; דְּסָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וּקְדוֹשִׁין כְּשֶׁהֵן בַּעֲלֵי מוּמִין אַגַּב אִמָּן – כְּשֶׁהֵן בַּעֲלֵי מוּמִין נַמִי קָרְבִי, קָא מַשְׁמַע לָן דְּלָא!

The Gemara presents a final objection: **Rabbi Zeira objects to** the claim that Deuteronomy 17:1 should be understood as referring to a private altar of an individual. **Say** instead that one should **apply it to** the **matter of the offspring of sacrificial** animals, **as** it could **enter your mind to say: Since they are sacred** even **when they are blemished, on account of their mother, they may also be sacrificed when they are blemished.** Deuteronomy 17:1 would therefore **teach us** that this is **not** the *halakha*.

אָמַר רָבָא: כְּבָר פְּסָקָהּ תַּנָּא דְּבֵי רַבִּי יִשְׁמָעֵאל, דְּתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: ״רַק קָדָשֶׁיךָ אֲשֶׁר יִהְיוּ לְךָ וּנְדָרֶיךָ״, ״רַק קָדָשֶׁיךָ״ – אֵלּוּ הַתְּמוּרוֹת, ״אֲשֶׁר יִהְיוּ לְךָ״ – אֵלּוּ הַוְּלָדוֹת, ״וּנְדָרֶיךָ״ – הִקִּישָׁן הַכָּתוּב לְנֶדֶר, מַה נֶּדֶר – בַּעַל מוּם לֹא, אַף הָנֵי נַמִי – בַּעַל מוּם לֹא.

Rava says in response: **The *tanna* of the school of Rabbi Yishmael**[B] **has already ruled** that the blemished offspring of sacrificial animals cannot be sacrificed upon the altar, from a different verse. **As the school of Rabbi Yishmael taught:** The verse states: **"Only your sacred items**[N] **which you have, and your vows,** you shall take, and go to the place which the Lord shall choose" (Deuteronomy 12:26). **"Only your sacred items"; these are the substitutes. "Which you have"; these are the offspring.** When it states: **"And your vows,"** the verse thereby **juxtaposes** animal substitutes and offspring **with** an animal consecrated by **a vow,** teaching that **just as** an animal consecrated by **a vow** is **not** sacrificed if it is **blemished, so too, these are also not** sacrificed if they are **blemished.** Accordingly, Deuteronomy 17:1 must be understood as referring to a private altar of an individual, as maintained by Rabbi Elazar.

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״וְאֵין עוֹשִׂין תְּמוּרָה״. מַאי טַעֲמָא? דְּאָמַר קְרָא: ״לֹא יַחֲלִיפֶנּוּ וְלֹא יָמִיר״ וגו׳, הָשְׁתָּא רַע בְּטוֹב אָמְרַתְּ לֹא, טוֹב בְּרַע מִיבָּעְיָא? אֶלָּא: טוֹב מֵעִיקָּרוֹ – עוֹשֶׂה תְּמוּרָה, רַע מֵעִיקָּרוֹ – אֵין עוֹשֶׂה תְּמוּרָה.

§ The mishna teaches: **And** sacrificial animals whose blemish preceded their consecration **do not render** an animal that was **a substitute** for them sacred. The Gemara asks: **What is the reason** for this ruling? It is derived from a verse, **as the verse states: "He shall not exchange it, nor substitute it,** a good for a bad, or a bad for a good" (Leviticus 27:10). The Gemara infers: **Now** that **you have said** that substituting **a bad** animal **for a good** animal is **not** permitted, **is it necessary** to state that substituting **a good** animal **for a bad** animal is **not** permitted? **Rather,** the verse is teaching that an animal which is **good at the outset renders** an animal that was **a subsitute** for it sacred, but an animal that is **bad at the outset,** i.e., whose blemish preceded its consecration, **does not render** an animal that was **a subsitute** for it sacred.

״אִם מֵתוּ יִפָּדוּ״. אָמַר רַב יְהוּדָה אָמַר רַב: זוֹ דִּבְרֵי רַבִּי שִׁמְעוֹן, דְּאָמַר: קָדְשֵׁי מִזְבֵּחַ הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, קָדְשֵׁי בֶדֶק הַבַּיִת לֹא הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה.

§ The mishna further teaches: **And if** these animals **died** before they were redeemed, **they may be redeemed** and fed to dogs. **Rav Yehuda says** that **Rav says: This is the statement of Rabbi Shimon, who says:** Items **consecrated to** be sacrificed on the **altar were included in** the requirement of **standing and valuation,**[NH] but items with the **sanctity of** those consecrated for **Temple maintenance,** such as the red heifer, **were not included in** the requirement of **standing and valuation.** Since animals that were consecrated for the altar require standing and valuation in order to be redeemed, they cannot be redeemed after death, as it is no longer possible to stand them before the priest. Animals consecrated for the Temple maintenance, and likewise animals whose blemish preceded their consecration, do not require standing and valuation, and therefore they can be redeemed after death.

דְּתָנַן, רַבִּי שִׁמְעוֹן אוֹמֵר: קָדְשֵׁי בֶדֶק הַבַּיִת, אִם מֵתוּ – יִפָּדוּ. וּמוֹדֶה רַבִּי שִׁמְעוֹן בְּבַעַל מוּם מֵעִיקָּרוֹ שֶׁנִּפְדֶּה. מַאי טַעְמָא? דְּאָמַר קְרָא ״אוֹתָהּ״, ״אוֹתָהּ״ – לְמַעוּטֵי בַּעַל מוּם מֵעִיקָּרָא.

This is **as we learned** in a mishna (*Temura* 32a): **Rabbi Shimon says:** With regard to animals **consecrated for the Temple maintenance, if they died they may be redeemed,** because animals consecrated for the Temple maintenance are not included in the obligation of standing and valuation. **And Rabbi Shimon concedes with regard to** an animal that was **blemished from the outset,** i.e., before it was consecrated, **that it may be redeemed** even if it was consecrated for the altar. **What is the reason?** It is derived from a verse, **as the verse states:** "Then he shall stand the animal before the priest. And the priest shall appraise **it"** (Leviticus 27:11–12). The emphasis on **"it"** serves **to exclude** an animal that was **blemished from the outset.**[H]

אֲבָל חֲכָמִים אוֹמְרִים: אִם מֵתוּ – יִקָּבְרוּ. מַאן חֲכָמִים? תַּנָּא דְּבֵי לֵוִי הוּא, דְּתָנָא דְּבֵי לֵוִי: הַכֹּל הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, וַאֲפִילּוּ בַּעַל מוּם מֵעִיקָּרוֹ.

But the Rabbis say: With regard to both animals consecrated for the altar and animals consecrated for Temple maintenance, **if they died they must be buried.** The Gemara asks: **Whose** opinion is that of **the Rabbis** in the mishna? It is the opinion of the ***tanna* of the school of Levi, as the school of Levi taught: All** animals **were included in** the obligation of **standing and valuation, even** an animal that was **blemished from the outset.**

וְכֵן תָּנָא דְּבֵי לֵוִי בְּמַתְנִיתֵיהּ: אֲפִילּוּ חַיָּה, אֲפִילּוּ עוֹף. וְהָכְתִיב: ״אוֹתָהּ״! ״אוֹתָהּ״ לְתַנָּא דְּבֵי לֵוִי קַשְׁיָא.

And similarly, the school of Levi taught in Levi's own collection of ***baraitot*: Even an undomesticated animal** and **even a bird** are included in the obligation of standing and valuation, despite the fact that they can never be sacrificed upon the altar. The Gemara asks: **But isn't it written:** "And the priest shall appraise **it,"** which is an expression of exclusion? If so, the verse must be excluding some case, at least that of an undomesticated animal or a bird. The Gemara concedes that the phrase "and the priest shall appraise **it"** is **difficult according to** the opinion of **the *tanna* of the school of Levi.**

NOTES

Standing [*ha'amada*] and valuation – הַעֲמָדָה וְהַעֲרָכָה: Before redeeming a consecrated animal, one must "stand the animal before the priest" (Leviticus 27:11), so that he can appraise it and determine the amount of money required for redemption. The Hebrew word for this is *ha'amada*, which literally means standing. Since a deceased animal cannot stand before the priest, it cannot be redeemed.

HALAKHA

Standing and valuation – הַעֲמָדָה וְהַעֲרָכָה: Any animal that was consecrated and then became blemished must be stood before a priest and appraised before it can be redeemed. Accordingly, if it died before it could be stood and appraised, it cannot be redeemed and must be buried. This is in accordance with the opinion of the Sages who disagree with Rabbi Shimon (*Temura* 32b) and the opinion of Rabbi Yoḥanan cited there (Rambam *Sefer Hafla'a, Hilkhot Arakhin VaḤaramim* 5:12, and see *Kesef Mishne* and *Leḥem Mishne* there).

An animal that was blemished from the outset – בַּעַל מוּם מֵעִיקָּרָא: An animal whose permanent blemish preceded its consecration may be redeemed after death, as it never possessed inherent sanctity. This *halakha* is in accordance with the mishna and the explanation of the Gemara in *Temura* 33a, as according to Rabbi Yoḥanan, both Rabbi Shimon and the Sages agree that a permanently blemished animal is not subject to the obligation of standing and valuation (Rambam *Sefer Avoda, Hilkhot Issurei Mizbe'aḥ* 1:11, and see *Kesef Mishne*, *Leḥem Mishne*, and *Mishne LaMelekh* there).

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אֲבָל רַבָּנַן דִּפְלִיגִי עֲלֵיהּ דְּרַבִּי שִׁמְעוֹן מַאי, הָכִי נַמִּי דְּאִם מֵתוּ – יִפָּדוּ? אִי הָכִי,

The Gemara asks: **But** in light of this difficulty, according to **the Rabbis who disagree with Rabbi Shimon** in the mishna in *Temura*, **what** is the *halakha*? **Is it indeed so that if** animals whose blemish preceded their consecration **died they may be redeemed,** as derived from the word "it"? **If that is so,** then why did Rav say: This is the statement of Rabbi Shimon?

Perek **II**
Daf **15** Amud **a**

NOTES

Perhaps it is because one may not redeem sacrificial animals in order to feed them to dogs – דִּלְמָא מִשּׁוּם דְּאֵין פּוֹדִין אֶת הַקָּדָשִׁים לְהַאֲכִילָן לַכְּלָבִים הוּא: There is a dispute between the *tanna'im* as to whether or not it is permitted to redeem sacrificial animals in order to feed their carcasses to animals, as will be discussed at the end of this *amud*. The mishna rules that animals whose blemish preceded their consecration may be redeemed even after death, because they are not invested with inherent sanctity, but only their value is sacred (*Mishne LaMelekh* on Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:10).

HALAKHA

One may not redeem sacrificial animals in order to feed them to dogs – אֵין פּוֹדִין אֶת הַקָּדָשִׁים לְהַאֲכִילָן לַכְּלָבִים: A sacrificial animal that became a *tereifa* and therefore may not be eaten or sacrificed upon the altar cannot be redeemed, because it is prohibited to redeem sacrificial animals in order to feed them to animals. Rather, it is left to graze until it dies, and then it is buried (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:10).

"זוֹ דִּבְרֵי רַבִּי שִׁמְעוֹן וּמַחֲלוֹקְתּוֹ" מִיבָּעֵיָא לֵיהּ!

Since both Rabbi Shimon and the Rabbis agree that an animal which was blemished before it was consecrated can be redeemed, **he should have** said: **This is the statement of Rabbi Shimon and those who disagree with him.**

אָמְרִי: רַב כְּרַבִּי שִׁמְעוֹן בֶּן לָקִישׁ, דְּאָמַר: לְרַבָּנַן, קָדְשֵׁי בֶדֶק הַבַּיִת הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, קָדְשֵׁי מִזְבֵּחַ לֹא הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה; וְלָא מִיתּוֹקְמָא מַתְנִיתִין כְּרַבָּנַן, דְּקָתָנֵי סֵיפָא: וְאִם מֵתוּ יִקָּבְרוּ.

The Sages **said** in response that **Rav** holds **in accordance with** the opinion of **Rabbi Shimon ben Lakish, who says: According to the Rabbis,** animals **consecrated for the Temple maintenance were included in** the obligation of **standing and valuation,** whereas animals **consecrated for the altar were not included in** the obligation of **standing and valuation. And** therefore it is **not** possible to **interpret the mishna in accordance with** the opinion of **the Rabbis, as the latter clause teaches: And if** animals consecrated for the altar **died, they must be buried** even if their consecration preceded their blemish, as they are included in the obligation of standing and valuation.

אָמַר: מִמַּאי דְּהָא "מֵתוּ יִקָּבְרוּ" מְשׁוּם דְּבָעֵי הַעֲמָדָה וְהַעֲרָכָה הוּא? דִּלְמָא מִשּׁוּם דְּאֵין פּוֹדִין אֶת הַקָּדָשִׁים לְהַאֲכִילָן לַכְּלָבִים הוּא! אָמְרִי: אִם כֵּן, נֵיתְנֵי: "אִם נַעֲשׂוּ טְרֵיפָה – יִקָּבְרוּ".

The Gemara **says: From where** is it known **that this** ruling of the mishna: If **they died they must be buried, is due to** the fact **that** they **require standing and valuation? Perhaps it is because one may not redeem sacrificial** animals in order **to feed them to dogs.**[NH] The Sages **said** in response: **If** that were **so, let** the mishna **teach: If** one of **them became an animal with a wound that will cause it to die within twelve months** [*tereifa*], **it must be buried.** Since a *tereifa* can be stood before the priest, the only reason to require its burial must be due to the prohibition against redeeming a sacrificial animal in order to feed it to dogs.

וְאִיבָּעֵית אֵימָא: לְעוֹלָם רַב כְּרַבִּי יוֹחָנָן סְבִירָא לֵיהּ, וּתְנֵי: "זוֹ דִּבְרֵי רַבִּי שִׁמְעוֹן וּמַחֲלוֹקְתּוֹ".

And if you wish, say instead: **Actually, Rav holds in accordance with** the opinion of **Rabbi Yoḥanan,** who says that according to the Rabbis, animals consecrated for the altar were included in the obligation of standing and appraising, and therefore the mishna can be explained in accordance with the opinion of the Rabbis. **And** in fact Rav **taught: This is the statement of Rabbi Shimon and those who disagree with him.**

"אֲבָל קָדַם הֶקְדֵּשָׁן" וכו'. מְנָא הָנֵי מִילֵּי? דְּתָנוּ רַבָּנַן: "צְבִי", מַה צְּבִי פָּטוּר מִן הַבְּכוֹרָה – אַף פְּסוּלֵי הַמּוּקְדָּשִׁין פְּטוּרִין מִן הַבְּכוֹרָה.

§ The mishna teaches: **But** if **their consecration preceded** their blemish, they are exempt from the mitzva of the firstborn and from the priestly gifts. The Gemara asks: **From where are these matters** derived? They are derived from a verse, **as the Sages taught** with regard to a verse discussing disqualified consecrated animals: "However, as you eat the **gazelle** and the hart, so shall you eat thereof" (Deuteronomy 12:22). **Just as a gazelle is exempt** from the mitzva of the **firstborn,** as this obligation does not apply to undomesticated animals, **so too, disqualified consecrated** animals **are exempt** from the mitzva of the **firstborn.**

אוֹצִיא אֲנִי אֶת הַבְּכוֹרָה וְלֹא אוֹצִיא אֶת הַמַּתָּנוֹת? תַּלְמוּד לוֹמַר: "אַיָּל", מָה אַיָּל פָּטוּר מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת – אַף פְּסוּלֵי הַמּוּקְדָּשִׁין פְּטוּרִין מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת.

The *baraita* continues: Based on this derivation, **I will exclude** consecrated animals that developed a blemish from the mitzva of **the firstborn but I will not exclude** them **from** the mitzva of **the gifts.** From where is it derived that such animals are not subject to the mitzva of the gifts either? The Gemara answers that **the verse states:** "However, as you eat the gazelle and the **hart.**" This teaches that **just as a hart is exempt** from the mitzva of the **firstborn and from** the mitzva of **the gifts, so too, disqualified consecrated** animals **are exempt** from the mitzva of the **firstborn and from** the mitzva of **the gifts.**

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אִי מַה צְּבִי וְאַיָּל חֶלְבָּן מוּתָּר, אַף פְּסוּלֵי הַמּוּקְדָּשִׁין חֶלְבָּן מוּתָּר! תַּלְמוּד לוֹמַר: ״אַךְ״ – חִלֵּק.

The Gemara asks: **If** so, then it follows that **just as the fat of a gazelle and a hart is permitted,**[H] **so too, the fat of disqualified consecrated** animals should be **permitted.** In fact, the *halakha* is that the fat of disqualified consecrated animals is forbidden, like that of other domesticated animals. The *baraita* answers that **the verse states: "However,** as you eat the gazelle and the hart." The term "however" **differentiates,** i.e., it serves to limit the analogy between these animals to the mitzvot of the firstborn and the gifts, and not forbidden fat.

אָמַר מָר: אוֹצִיא אֶת הַבְּכוֹר וְלֹא אוֹצִיא אֶת הַמַּתָּנוֹת. מַאי שְׁנָא אוֹצִיא אֶת הַבְּכוֹר – שֶׁאֵין שָׁוֶה בַּכֹּל, וְלֹא אוֹצִיא אֶת הַמַּתָּנוֹת – שֶׁשָּׁווֹת בַּכֹּל, תַּלְמוּד לוֹמַר: ״אַיָּל״.

The Gemara analyzes the *baraita*. **The Master said: I will exclude** consecrated animals that developed a blemish from the mitzva of **the firstborn but I will not exclude** them from the mitzva of **the gifts.** The Gemara asks: **What is different** about a firstborn **that I** would **exclude** only the mitzva of **the firstborn,** in the first stage of this interpretation? Why not exclude the mitzva of the gifts as well? The Gemara answers **that** the mitzva of the firstborn **does not apply equally** to all animals but only to males, **and** therefore **I do not** initially **exclude** the mitzva of **the gifts, as they do apply equally to all** domesticated animals, including females. Therefore, when **the verse states "a hart"** in addition to the gazelle, this is derived as teaching that disqualified consecrated animals are excluded from the mitzva of the gifts as well.

אֲמַר לֵיהּ רַב פַּפָּא לְאַבַּיֵי: אִי מַה צְּבִי וְאַיָּל אֵין אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בָּהֶן, אַף פְּסוּלֵי הַמּוּקְדָּשִׁין – אֵין אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בּוֹ!

Rav Pappa said another question **to Abaye: If** one accepts the analogy between disqualified consecrated animals and the animals mentioned in the verse, then one can claim as follows: **Just as** the prohibition against slaughtering an animal **itself and its offspring**[B] on the same day **does not apply to a gazelle and a hart,**[H] **so too,** the prohibition against slaughtering an animal **itself and its offspring** should **not apply to disqualified consecrated** animals. Why does the *baraita* not address this issue?

אֲמַר לֵיהּ: לְמַאי מְדַמֵּית לְהוּ? אִי לְחוּלִּין – אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בּוֹ, וְאִי לְקָדָשִׁים – אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בּוֹ.

Abaye **said to** Rav Pappa: **To what are you comparing** disqualified consecrated animals? **If** you are comparing them **to non-sacred** domesticated animals, the prohibition against slaughtering **a mother and its offspring** on the same day **applies to them. And if** you are comparing them **to sacrificial** animals, the prohibition against slaughtering an animal **itself and its offspring** also **applies to them.**[H] Since all domesticated animals are subject to the prohibition against slaughtering a mother and its offspring, one cannot derive the exclusion of disqualified consecrated animals from this verse.

אֲמַר לֵיהּ: אִי הָכִי, גַּבֵּי חֶלְבּוֹ נַמִּי נֵימָא הָכִי: לְמַאי מְדַמֵּית לְהוּ? אִי לְחוּלִּין – חֶלְבָּן אָסוּר, וְאִי לְקָדָשִׁים – חֶלְבָּן אָסוּר!

Rav Pappa **said to him: If so,** then **with regard to its fat as well, let us state** a claim **like this: To what are you comparing** disqualified animals? **If** you are comparing them **to non-sacred** animals, **their fat is forbidden. And** if you are comparing them **to sacrificial** animals, **their fat is** also **forbidden.** Since the prohibition of fat also applies to both consecrated and non-sacred animals, by the same reasoning there is no need for the verse to teach that the prohibition of fat applies. Nevertheless, the *baraita* derives this *halakha* from the word "however."

HALAKHA

The fat of a gazelle and a hart is permitted – צְבִי וְאַיָּל חֶלְבָּן מוּתָּר: The fat of an ox, lamb, and goat is prohibited. The fat of all other kosher animals is permitted (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 7:1; *Shulḥan Arukh*, *Yoreh De'a* 64:1).

The prohibition against slaughtering a mother and its offspring on the same day does not apply to a gazelle and a hart – אֵין אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בָּהֶן: The prohibition against slaughtering a mother and its offspring on the same day applies only to kosher domesticated animals (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:8; *Shulḥan Arukh*, *Yoreh De'a* 16:7).

The prohibition against slaughtering a mother and its offspring also applies to them – אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בּוֹ: The prohibition against slaughtering a mother and its offspring on the same day applies to both sacred and non-sacred animals (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:2).

BACKGROUND

A mother and its offspring – אוֹתוֹ וְאֶת בְּנוֹ: The Torah prohibits the slaughter of a mother and its young, whether male or female, on the same day. Although the prohibition of: "It and its offspring" (Leviticus 22:28), is phrased with masculine pronouns in the Torah, most of the Sages rule that the prohibition refers specifically to a mother and its offspring. Other authorities extend the prohibition to a male animal and its offspring in cases where the paternity of the animal is established (*Shulḥan Arukh*, *Yoreh De'a* 16:2). It is irrelevant whether the mother animal or the offspring is slaughtered first.

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אֶלָּא, לָאו מִי אָמְרַתְּ: ״אַךְ״ – וְלֹא חֶלְבָּן? אֵימַר נַמִּי: ״אַךְ״ – וְלֹא אוֹתוֹ וְאֶת בְּנוֹ.

Rather, didn't you say in the *baraita*: **"However," but not their fat? Say also: "However," but not a mother and its offspring.** With regard to both *halakhot*, which apply to domesticated but not undomesticated animals, the reason that the analogy is not extended is not due to Abaye's claim, as the juxtaposition between the animals would teach that their *halakhot* are the same. Instead, both exclusions are derived equally from the word "however," which serves to differentiate disqualified consecrated animals from the gazelle and the hart both with regard to forbidden fat and with regard to the prohibition against slaughtering a mother and its offspring. Interpreting the exclusion in this manner means that disqualified consecrated animals are at least comparable to sacrificial animals in that they are excluded from the mitzva of the firstborn and the priestly gifts. Had the exclusion been interpreted with regard to the mitzva of the firstborn and the priestly gifts, disqualified consecrated animals would not be comparable to any type of animal.

רָבָא אָמַר: ״אַךְ״ – לְאוֹתוֹ וְאֶת בְּנוֹ הוּא דְּאָתָא, וְחֶלְבּוֹ – מִ״דָּמוֹ״ נָפְקָא. דִּכְתִיב: ״רַק אֶת דָּמוֹ לֹא תֹאכֵל״,

The Gemara cites a different interpretation. **Rava says:** The word **"however" comes to** exclude the prohibition against slaughtering **a mother and its offspring** from the comparison between disqualified consecrated animals and the gazelle and hart, **and** the exclusion of **its fat is derived from** the term **"its blood." As it is written** with regard to a blemished firstborn animal: "You shall eat it… as the gazelle, and as the hart. **Only you shall not eat its blood"** (Deuteronomy 15:22–23).

מַאי ״דָּמוֹ״? אִילֵימָא דָּמוֹ מַמָּשׁ – לֹא יְהֵא אֶלָּא דָּמָן דִּצְבִי וְאַיָּל, אַשּׁוּ דָּמָן דִּצְבִי וְאַיָּל מִי שָׁרֵי? אֶלָּא: ״דָּמוֹ״ – חֶלְבּוֹ.

Rava elaborates: **What** is **"its blood"** referring to? **If we say** that it is referring to **its actual blood,** the Torah would not have had to state this explicitly, as even if **it were merely** similar to **the blood of a gazelle and a hart, is that to say** that **anyone permits the blood of a gazelle and a hart?** Since the blood of all animals is forbidden, it is already established that the blood of a blemished firstborn animal is forbidden. **Rather,** the term **"its blood"** is referring to **its fat.**

וְלִיכְתּוֹב רַחֲמָנָא ״חֶלְבּוֹ״! אִי כָּתַב רַחֲמָנָא חֵלֶב, הֲוָה אָמֵינָא: אַהֲנֵי הֶיקֵּישָׁא וְאַהֲנֵי קְרָא,

The Gemara challenges: **But** in that case, **let the Merciful One write: Its fat,** instead of "its blood." The Gemara explains: **If the Merciful One had written fat, I would say: The juxtaposition** between disqualified consecrated animals and a gazelle and a hart **is effective** with regard to fat, **and the verse** itself **is** also **effective,** i.e., it can be derived from the juxtaposition and the verse together that the prohibition of fat applies to disqualified consecrated animals to a certain extent, but not fully.

אַהֲנֵי הֶיקֵּישָׁא – לְמַעוּטֵי מִכָּרֵת, דְּכִי כָּתַב כָּרֵת – אַאוֹכֵל חֵלֶב בְּהֵמָה הוּא דִּכְתִיב, שֶׁנֶּאֱמַר: ״כִּי כָל אוֹכֵל חֵלֶב מִן הַבְּהֵמָה״,

The Gemara elaborates: **The juxtaposition is effective in** that it **excludes** one who eats the fat of consecrated animals **from** the punishment of **excision from the World-to-Come** [***karet***]**.** The reason is **that when** the Merciful One **writes "*karet*," it is written with regard to one who eats the fat of a domesticated animal, as it is stated: "For anyone who eats the fat of the domesticated animal…** even the soul that eats it shall be excised from his people" (Leviticus 7:25). The juxtaposition to a gazelle and a hart would teach that the punishment of *karet* does not apply in the case of disqualified consecrated animals.

וְאַהֲנֵי קְרָא – לְמֵיקָם עֲלֵיהּ בִּלָּאו בְּעָלְמָא. לְהָכִי אַפְקֵיהּ רַחֲמָנָא בִּלְשׁוֹן ״דָּמוֹ״ – לוֹמַר לָךְ: מַה דָּמוֹ בְּכָרֵת, אַף חֶלְבּוֹ בְּכָרֵת.

And at the same time **the verse** in Deuteronomy 15:23 would also be **effective, as,** if it were written: Only you shall not eat its fat, it would **establish** the consumption of the fat of disqualified consecrated animals **as a prohibition** for which one is liable **merely** to receive lashes. **For this** reason, **the Merciful One expresses** the prohibition against eating the fat using **the language "its blood,"** in order **to tell you** that **just as** consumption of **its blood** is punishable **by *karet*, so too,** consumption of **its fat** is punishable **by *karet*.** By using the term "its blood," the Torah conveys that one is liable to receive *karet* for eating the fat of disqualified consecrated animals, i.e., that with regard to this particular *halakha* the juxtaposition does not apply at all.

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וְהָא תַּנָּא, ״אַךְ״ וְלֹא חֶלְבּוֹ קָאָמַר!

Rava stated that the *halakha* with regard to the consumption of the fat of a disqualified consecrated animal is derived from the verse: "Only shall you not eat its blood." The Gemara asks: **But didn't** the ***tanna*** of the *baraita* **say** that the word **"however"** limits the juxtaposition so that disqualified consecrated animals are not included in the mitzvot of the firstborn and the gifts, **but** they are **not** excluded from the prohibition against eating **its fat?** How can Rava suggest a different source than the one cited in the *baraita*?

הָכִי קָאָמַר: אִילּוּ לֹא נֶאֱמַר ״דָּמוֹ״, הָיִיתִי אוֹמֵר ״אַךְ״ – וְלֹא חֶלְבּוֹ, עַכְשָׁיו שֶׁנֶּאֱמַר ״דָּמוֹ״ – לְאוֹתוֹ וְאֶת בְּנוֹ הוּא דְּאָתָא.

The Gemara answers that according to Rava, **this** is what the *baraita* **is saying: Had** the term **"its blood" not been stated, I would have said** that the word **"however"** teaches: **But not its fat.** But **now that it is stated: "Its blood,"** the word "however" **comes to** teach that the prohibition against slaughtering **a mother and its offspring** on the same day applies to disqualified consecrated animals.

״וְאֵינָן יוֹצְאִין לְחוּלִין״. מְנָא הָנֵי מִילֵּי? דְּתָנוּ רַבָּנָן: ״תִּזְבַּח״ – וְלֹא גִּיזָּה, ״בָּשָׂר״ – וְלֹא חָלָב, ״וְאָכַלְתָּ״ – וְלֹא לִכְלָבֶיךָ; מִכָּאן שֶׁאֵין פּוֹדִין אֶת הַקָּדָשִׁים לְהַאֲכִילָן לִכְלָבִים.

§ The mishna teaches: **And** animals whose consecration preceded their blemish **do not** completely **emerge** from their sacred status and assume **non-sacred** status in order to be shorn and to be utilized for labor. The Gemara asks: **From where are these matters**[N] derived? They are derived from a verse, **as the Sages taught** in a *baraita* with regard to a verse discussing consecrated animals that developed a blemish and were redeemed: "Notwithstanding, after all the desire of your soul, you may slaughter and eat flesh" (Deuteronomy 12:15). The term **"you may slaughter"** teaches that slaughtering the animal is permitted, **but not shearing** it. Likewise, "you may eat **flesh**" teaches that its meat is permitted, **but not** its **milk.** Finally, **"you may eat"** teaches that you may eat the meat, **but** you may **not** feed it **to your dogs. From here** it is derived **that one may not redeem sacrificial** animals in order **to feed them to dogs.**

NOTES

From where are these matters – מְנָא הָנֵי מִילֵּי: The Gemara here provides a source for the prohibition against shearing an animal that was consecrated and later redeemed, but it does not mention the prohibition against utilizing it for labor. Some explain that the prohibition of labor is also derived from the term "you may slaughter," as that term indicates that only slaughter is permitted, whereas any other act, whether shearing or labor, is prohibited (*Shita Mekubbetzet*, citing *Tosafot Ḥitzoniyyot*). Others maintain that the source for the prohibition of labor is derived from the second clause: "You may eat flesh," but not its milk, and this includes all other labors in addition to milking (Rabbeinu Gershom Meor HaGola).

Perek **II**
Daf **15** Amud **b**

אִיכָּא דְּאָמְרִי: ״תִּזְבַּח וְאָכַלְתָּ״ – אֵין לְךָ בָּהֶן הֶיתֵּר אֲכִילָה אֶלָּא מִשְּׁעַת זְבִיחָה וָאֵילָךְ. אֲבָל פּוֹדִין אֶת הַקָּדָשִׁים לְהַאֲכִילָן לִכְלָבִים הָכִי נָמִי דְּאָמַר.

The Gemara cites an alternative exposition. **Some say** that the phrase: **"You may slaughter and eat,"** teaches that **you have permission to eat them only from the time of slaughter onward.** Similarly, no benefit may be derived from them until after their slaughter. The Gemara notes: **But** according to this interpretation, **so too,** the *tanna* **said** that **one may redeem sacrificial** animals in order **to feed them to dogs,** as this prohibition is not derived from the term "you may eat."

״וְוַלְדָן וְחֶלְבָּן אָסוּר לְאַחַר פִּדְיוֹנָן״. הֵיכִי דָּמֵי? אִילֵימָא דְּאִיעַבַּר וְאִיתְיְלִיד לְאַחַר פִּדְיוֹנָן – אַמַּאי? וְלַד צְבִי וְאַיָּל נִינְהוּ! אֶלָּא דְּאִיעַבַּר לִפְנֵי פִּדְיוֹנָן וְאִיתְיְלִיד לְאַחַר פִּדְיוֹנָן; הָא לִפְנֵי פִּדְיוֹנָן – מִיקַּדֵּשׁ נַמִי קָדְשֵׁי.

§ The mishna teaches with regard to sacrificial animals: **And their offspring and their milk are prohibited after their redemption.** The Gemara asks: **What are the circumstances** of the offspring's birth? **If we say that** the offspring **was** both **conceived and born after** its mother's **redemption,** then **why** would it be prohibited? After all, **they are** like **the offspring** of **a gazelle or a hart,**[N] i.e., they are completely non-sacred. **Rather,** it must be referring to a case **where** the offspring **was conceived prior to** its mother's **redemption and born after** its mother's **redemption.** One can infer: **But** if they were born **before their** mothers' **redemption,** not only are they not prohibited, **they are also imbued with** inherent **sanctity.**

מְנָא הָנֵי מִילֵּי? דְּתָנוּ רַבָּנָן: ״זָכָר״ – לְרַבּוֹת אֶת הַוָּלָד, ״וּנְקֵבָה״ – לְרַבּוֹת אֶת הַתְּמוּרָה.

The Gemara asks: **From where is this matter,** that the offspring of a sacrificial animal is imbued with inherent sanctity, derived?[N] It is derived from a verse, **as the Sages taught** in a *baraita* with regard to the verse: "And if his offering be a sacrifice of peace offerings: If he sacrifice of the cattle, whether male or female, he shall sacrifice it without blemish before the Lord" (Leviticus 3:1), that the words "male" and "female" are extraneous, as the term "cattle" includes both. Consequently, **"male"** serves **to include the offspring** of a peace offering; **"or female"** serves **to include the** female animal that is designated as **a substitute** for a peace offering.

NOTES

They are like the offspring of a gazelle or a hart – וְלַד צְבִי וְאַיָּל נִינְהוּ: Disqualified consecrated animals that have been redeemed are compared to a gazelle and a hart, which are non-sacred.

From where is this matter derived – מְנָא הָנֵי מִילֵּי: Rashi explains that this question is referring to animals born prior to their mother's redemption, which are imbued with inherent sanctity by Torah law. It cannot be referring to animals born after redemption, because they are not sacred by Torah law but by rabbinic law, and therefore there is no reason to seek a derivation from a verse for that *halakha*. Others maintain that the Gemara is referring specifically to animals born after their mother's redemption. According to this interpretation, such offspring do, in fact, inherit a certain measure of sanctity from the redeemed mother by Torah law, but this sanctity merely prevents one from deriving benefit from the offspring; it does not enable the animal to be sacrificed, as the Gemara will explain (Rabbeinu Gershom Meor HaGola).

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וְאֵין לִי אֶלָּא וְלַד תְּמִימִין וּתְמוּרַת תְּמִימִים, וְלַדֵּי בַּעֲלֵי מוּמִין וּתְמוּרַת בַּעֲלֵי מוּמִין מִנַּיִן? כְּשֶׁהוּא אוֹמֵר: "אִם זָכָר" – לְרַבּוֹת וְלַד בַּעֲלֵי מוּמִין, "אִם נְקֵבָה" – לְרַבּוֹת תְּמוּרַת בַּעֲלֵי מוּמִין.

The *baraita* continues: **And I have** derived this *halakha* **only** with regard to **the offspring of unblemished** animals **and the substitute of unblemished** animals. **From where** do I derive that the same *halakha* applies to **the offspring of blemished** animals[H] **and the substitute of blemished** animals? **When** the verse **states: "Whether male,"** this serves **to include the offspring of blemished** animals, in a case where its consecration preceded its blemish, and when the verse states: **"Or female,"** it serves **to include the substitute of blemished** animals.

אוֹתָן וְלָדוֹת שֶׁלְּאַחַר פִּדְיוֹנָן, מַה תְּהֵא עֲלֵיהֶן? לְפָנֵי פִּדְיוֹנָן מִיפְלַג פְּלִיגִי בְּהוּ, אִיכָּא לְמַאן דְּאָמַר: קָדְשִׁי לִיקָּרֵב, וְאִיכָּא לְמַאן דְּאָמַר: קָדְשִׁי לְרֵעְיָיה;

The Gemara asks: With regard to **those offspring that** were born **after their** mother's **redemption, what will be with them,** since they can be neither sacrificed nor redeemed? Before providing an answer, the Gemara notes: If they were born **before their** mother's **redemption,** the Sages **disagree with regard to** the *halakha*. **There is one who says: They are** entirely **consecrated,** to the extent that they may **be sacrificed, and there is one who says: They are consecrated to graze** until a blemish befalls them so that they can be redeemed, but they may not be sacrificed.

דִּלְאַחַר פִּדְיוֹנָן מַה תְּהֵא עֲלֵיהֶן? אָמַר רַב הוּנָא: כּוֹנְסָן לְכִיפָּה וְהֵן מֵתִין. דְּהֵיכִי לִיעֲבִיד? לִיקָּרְבִינְהוּ – מִכַּח קָדוּשָׁה דְּחוּיָה קָאָתוּ, לִיפְרְקִינְהוּ – לָא אַלִּימִי לְמִיתְפַּס פִּדְיוֹנָן.

The Gemara returns to the previous inquiry: With regard to those **that** were born **after their** mother's **redemption, what will be with them? Rav Huna says: One gathers them into a chamber,**[N] **and they die** of starvation. The reason is **that what** are we **to do? Shall we sacrifice them?** They cannot be sacrificed, as **they received** their status **from** the **deferred sanctity** of the redeemed mother, and are therefore unfit for the altar. **Shall we redeem them?** They cannot be redeemed, as their sanctity **is not strong** enough **to be transferable** to money for **their redemption.**[N]

אָמְרִי בְּמַעֲרָבָא מִשְּׁמֵיהּ דְּרַבִּי חֲנִינָא: סָמוּךְ לְפִדְיוֹנָן מַתְפִּיקָן לְשֵׁם אוֹתוֹ וָבַח. סָמוּךְ לְפִדְיוֹנָן? לֵימְרָא דִּבְנֵי פִּדָּיֵיה נִינְהוּ? אֶלָּא אֵימָא: סָמוּךְ לְפִדְיוֹן אִמָּן מַתְפִּיקָן לְשֵׁם אוֹתוֹ וָבַח. טַעְמָא מַאי? אָמַר רַבִּי לֵוִי: גְּזֵירָה שֶׁמָּא יְגַדֵּל מֵהֶן עֲדָרִים עֲדָרִים.

They said in the West, Eretz Yisrael, **in the name of Rabbi Ḥanina:**[N] Immediately **before their redemption, one dedicates them for the sake of the same offering**[H] for which their mother was consecrated. The Gemara asks: Immediately **before their redemption?** Is that **to say that they are fit to be redeemed?** It was established that they cannot be redeemed. **Rather, say:** Immediately **before their mother's redemption, one dedicates them for the sake of the same offering.**[N] The Gemara asks: **What is the reason**[N] that the offspring are not simply left as they are? **Rabbi Levi says:** It is a rabbinic **decree, lest one raise flocks and flocks of them.** In other words, if the offspring are left alive in their forbidden status, there is a concern that one might eventually derive benefit from them and thereby violate a Torah prohibition.

HALAKHA

The offspring of blemished animals – וְלַדֵּי בַּעֲלֵי מוּמִין: The offspring of a consecrated animal that developed a permanent blemish is considered entirely sacred if it was born prior to its mother's redemption. This ruling is in accordance with the *baraita* and the opinions of Shmuel and Rava in *Temura* 17b (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:11 and *Sefer Korbanot*, *Hilkhot Temura* 4:9).

Before the time of their redemption one dedicates them for the sake of the same offering – סָמוּךְ לְפִדְיוֹנָן מַתְפִּיקָן לְשֵׁם אוֹתוֹ וָבַח: If a consecrated animal was pregnant and became blemished, and gave birth after it was redeemed, the offspring is forbidden and cannot be redeemed. Rather, before redeeming the mother one dedicates the offspring as the same offering for which the mother was consecrated. The *halakha* is in accordance with the opinion of Rabbi Ḥanina and Rav Sheshet (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:11).

NOTES

One gathers them into a chamber – כּוֹנְסָן לְכִיפָּה: This is the prescribed course of action in any case where a consecrated animal cannot be redeemed even after developing a permanent blemish. On the one hand, consecrated animals may not be killed through direct action. On the other hand, there is a concern that if they are simply left to graze, someone might inadvertently derive benefit from them. Although it is generally agreed that causing the suffering of sentient creatures is a prohibition by Torah law, this prohibition does not apply where it is done for a positive purpose. Consequently, these animals are therefore left to starve in order to prevent one from violating the prohibition against deriving benefit from consecrated animals.

Their sanctity is not strong enough to be transferable to money for their redemption – לָא אַלִּימִי לְמִיתְפַּס פִּדְיוֹנָן: In order for an item to be divested of its sanctity, that sanctity must be transferred to some other entity. Redemption is the transfer of sanctity onto money. In this case the offspring's sanctity is too insubstantial to be transferred to the money, and therefore it cannot be redeemed. Rashi suggests a different explanation, that the unborn offspring of a pregnant animal was redeemed along with its mother, in accordance with the principle: A fetus is considered as the thigh of its mother. He explains that the prohibition against deriving benefit from the offspring applies by rabbinic law, and redeeming the offspring is impossible because it is not actually consecrated.

Other early authorities disagree, maintaining that the offspring is in fact somewhat consecrated by Torah law. They explain that the redemption of the pregnant mother did not fully remove the sanctity from the offspring because the offspring, unlike its mother, is unblemished, and unblemished animals dedicated to the altar cannot be redeemed.

They said in the West in the name of Rabbi Ḥanina – אָמְרִי בְּמַעֲרָבָא מִשְּׁמֵיהּ דְּרַבִּי חֲנִינָא: Rashi apparently understands that there is no essential dispute between Rabbi Ḥanina and Rav Huna. Both agree that Rabbi Ḥanina's suggestion is viable. Rav Huna contends that implementing it is too risky because it could lead to the violation of a Torah prohibition. Other commentaries maintain that Rav Huna rejects the notion that the offspring can be dedicated as an offering (see *Shita Mekubbetzet* and Rabbeinu Gershom Meor HaGola).

Before their mother's redemption one dedicates them for the sake of the same offering – סָמוּךְ לְפִדְיוֹן אִמָּן מַתְפִּיקָן לְשֵׁם אוֹתוֹ וָבַח: According to Rashi, Rabbi Ḥanina is providing a mechanism by which one can manipulate the status of the offspring so that it can be redeemed. It can be inferred from the Rambam that implementing this suggestion would result in the offspring being fully fit for sacrifice (*Sefat Emet*).

What is the reason – טַעְמָא מַאי: The early commentaries suggest different explanations of the Gemara's question and answer. The translation here is in accordance with the interpretation of Rabbeinu Gershom Meor HaGola, who maintains that the question is referring to Rabbi Ḥanina's ruling that the offspring must be dedicated. The Gemara is asking why one should take the trouble of doing so; what is wrong with Rav Huna's alternative? Rabbi Levi explains that if one follows Rav Huna's ruling he runs the risk that he might neglect to leave the animal to die, which could lead to a proliferation of prohibited animals.

Rashi presents a different explanation, citing Rabbi Eliezer HaGadol, according to which the question is addressed specifically to Rav Huna: What is the reason that Rav Huna insists on leaving the animal to die instead of accepting Rabbi Ḥanina's suggestion? Rabbi Levi's answer is that if one can redeem the offspring he might neglect the redemption of its mother, which might in turn lead to the inadvertent violation of the prohibition against deriving benefit from a consecrated animal.

Rashi quotes an additional explanation from his teacher, who interprets the question in a broader sense: Why is the offspring of a redeemed animal, born after its redemption, forbidden by rabbinic law at all? Similar to the previous interpretation, Rabbi Levi answers that if Sages had permitted the offspring, one might refrain from redeeming and slaughtering other consecrated mothers that developed a blemish, so that they will give birth to more permitted offspring. This would lead to the risk of one shearing or utilizing the mother animals for labor, thereby violating a prohibition by Torah law.

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בְּעָא מִינֵּיהּ רָבִינָא מֵרַב שֵׁשֶׁת: מַהוּ שֶׁמַּתְפִּיסָן לְכָל זֶבַח שֶׁיִּרְצֶה? אֲמַר לֵיהּ: אֵין מַתְפִּיסָן. מַאי טַעְמָא? אָמַר לֵיהּ: גָּמַר ״בִּשְׁעָרֶיךָ״ ״בִּשְׁעָרֶיךָ״ מִבְּכוֹר, מַה בְּכוֹר – אֵין מַתְפִּיסָן לְכָל זֶבַח שֶׁיִּרְצֶה, דִּכְתִיב: ״אַךְ בְּכוֹר אֲשֶׁר יִבָּכֵר לַה׳ בִּבְהֵמָה וגו׳ לֹא יַקְדִּישׁ אִישׁ אֹתוֹ״, אַף הָנֵי – אֵין מַתְפִּיסָן לְכָל זֶבַח שֶׁיִּרְצֶה.

Ravina raised a dilemma before Rav Sheshet: According to Rabbi Ḥanina, **what is** the *halakha* with regard to the following matter: **Can one dedicate** the unborn offspring **as any offering he desires?** Rav Sheshet **said to him: He may not dedicate them** as any offering other than that for which the mother was consecrated. Ravina asked: **What is the reason?** Rav Sheshet **said to him:** It is **derived** by a verbal analogy between the phrase: **"Within** all **your gates"** (Deuteronomy 12:15), and: **"Within your gates"** (Deuteronomy 15:22), written **with regard to a firstborn. Just as one cannot dedicate a firstborn as any offering he desires, as it is written: "But the firstborn among animals, which is born as a firstborn to the Lord, no man shall sanctify it"** (Leviticus 27:26), **so too, one cannot dedicate these** offspring **as any offering he desires.**

תַּנְיָא כְּוָותֵיהּ דְּרַב שֵׁשֶׁת: קָדְשִׁים שֶׁקִּדֵּם מוּם קָבוּעַ לְהֶקְדֵּישָׁן וְנִפְדּוּ – חַיָּיבִין בִּבְכוֹרָה וּבְמַתָּנוֹת. בֵּין לִפְנֵי פִדְיוֹנָן בֵּין לְאַחַר פִּדְיוֹנָן – הַגּוֹזֵז וְהָעוֹבֵד בָּהֶן אֵינוֹ סוֹפֵג אֶת הָאַרְבָּעִים. בֵּין לִפְנֵי פִדְיוֹנָן בֵּין לְאַחַר פִּדְיוֹנָן – אֵין עוֹשִׂין תְּמוּרָה.

The Gemara notes: **It is taught** in a *baraita* **in accordance with** the opinion **of Rav Sheshet: Sacrificial** animals **whose permanent blemish preceded their consecration and** that **were redeemed, are obligated in** the mitzva of **a firstborn, and** obligated **in the gifts. Whether before their redemption or after their redemption, one who shears** them **or utilizes them for labor does not incur the forty** lashes.[N] Similarly, **whether before their redemption or after their redemption, they do not render** an animal that was **a substitute** for them sacred.

וְלִפְנֵי פִדְיוֹנָן – מוֹעֲלִין בָּהֶן, וּלְאַחַר פִּדְיוֹנָן – אֵין מוֹעֲלִין בָּהֶן. וּוְלָדוֹתֵיהֶן חוֹל, וְנִפְדִּין תְּמִימִים, וּמַתְפִּיסָן לְכָל זֶבַח שֶׁיִּרְצֶה. כְּלָלוֹ שֶׁל דָּבָר: הֲרֵי הֵן כְּחוּלִּין לְכָל דִּבְרֵיהֶם, אֵין לְךָ בָּהֶם אֶלָּא מִצְוַת עֵלּוּי בִּלְבַד.

And before their redemption, one who benefits from **them** is liable for **misuse** of consecrated property,[H] **and after their redemption,** one who benefits from **them is not** liable for **misuse** of consecrated property. **And their offspring are non-sacred** if they were born after their mother's redemption; **and they may be redeemed** while they are **unblemished** if they were born before their mother's redemption; **and one can dedicate** the offspring **as any offering he desires. The principle of the matter** is that animals whose permanent blemish preceded their consecration **are like non-sacred** animals **in all matters,** and **you have only the mitzva of value alone,** i.e., they must be valuated and redeemed with money, unlike non-sacred animals.

אֲבָל קָדַם הֶקְדֵּישָׁן אֶת מוּמָן, אוֹ מוּם עוֹבֵר לְהֶקְדֵּישָׁן וּלְאַחַר מִכָּאן נוֹלַד מוּם קָבוּעַ, וְנִפְדּוּ – פְּטוּרִין מִן הַבְּכוֹרָה וּמִן הַמַּתָּנוֹת, בֵּין לִפְנֵי פִדְיוֹנָן בֵּין לְאַחַר פִּדְיוֹנָן – הַגּוֹזֵז וְהָעוֹבֵד בָּהֶן סוֹפֵג אֶת הָאַרְבָּעִים. וּבֵין לִפְנֵי פִדְיוֹנָן בֵּין לְאַחַר פִּדְיוֹנָן – עוֹשִׂין תְּמוּרָה.

The *baraita* continues: **But** if **their consecration preceded their blemish, or** they had **a temporary blemish** prior **to their consecration and afterward developed a permanent blemish, and they were redeemed, they are exempt** from the mitzva of the **firstborn and from the gifts.** Furthermore, **whether before their redemption or after their redemption, one who shears** them **or utilizes them for labor incurs the forty** lashes. **And whether before their redemption or after their redemption, they render** an animal that was **a substitute** for them sacred.

לִפְנֵי פִדְיוֹנָן – מוֹעֲלִין בָּהֶן, וּלְאַחַר פִּדְיוֹנָן – אֵין מוֹעֲלִין בָּהֶן. וּוְלָדוֹתֵיהֶן קוֹדֶשׁ, וְאֵין נִפְדִּין תְּמִימִין, וְאֵין מַתְפִּיסָן לְכָל זֶבַח שֶׁיִּרְצֶה. כְּלָלוֹ שֶׁל דָּבָר: הֲרֵי הֵן כְּהֶקְדֵּשׁ לְכָל דִּבְרֵיהֶם, וְאֵין לְךָ בָּהֶן אֶלָּא הֵיתֵּר אֲכִילָה בִּלְבַד.

The *baraita* concludes: **Before their redemption,** one who derives benefit from **them** is liable for **misuse** of consecrated property, **and after their redemption,** one who derives benefit from **them is not** liable for **misuse** of consecrated property. **And their offspring are sacred and may not be redeemed** while they are **unblemished, and one may not dedicate them as any offering he desires. The principle of the matter** is that redeemed animals whose consecration preceded their permanent blemish **are like** redeemed **sacrificial** animals **in all matters, and you have only the permission of consumption alone,** i.e., once they have been redeemed they may be eaten. Like Rav Sheshet, this *tanna* rules that the offspring of animals whose consecration preceded their blemish may not be dedicated as any offering one desires.

NOTES

One who shears them or utilizes them for labor does not incur the forty lashes – הַגּוֹזֵז וְהָעוֹבֵד בָּהֶן אֵינוֹ סוֹפֵג אֶת הָאַרְבָּעִים: The prohibition against shearing and utilizing an animal for labor applies specifically to sacrificial animals, as they possess inherent sanctity and are to be sacrificed upon the altar. Since the animals mentioned here possess only sanctity that inheres in their value, they are not subject to the prohibition of shearing and labor, nor can they render another animal a substitute for an offering. Nevertheless, it can be inferred from the mishna that there is a rabbinic prohibition against shearing them and utilizing them for labor due to the concern that one might do the same with a blemished consecrated animal that does possess inherent sanctity (see 14a).

HALAKHA

Before their redemption one who benefits from them is liable for misuse of consecrated property – לִפְנֵי פִדְיוֹנָן מוֹעֲלִין בָּהֶן: One is liable for misusing consecrated property if he derives benefit from any blemished animal that was consecrated as an offering of the most sacred order, regardless of whether or not the animal's consecration preceded its blemish (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 2:16).

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״כְּלָלוֹ שֶׁל דָּבָר״ דְּרִישָׁא – לַאֲתויֵי שׁוֹחֲטָן בַּחוּץ דְּפָטוּר, ״כְּלָלוֹ שֶׁל דָּבָר״ דְּסֵיפָא

It is accepted that whenever a *tanna* states: The principle of the matter, he is adding certain cases that one might have thought were excluded from the *halakha* in question. Accordingly, the Gemara notes that the phrase: **The principle of the matter, in the former clause** of the *baraita*, which states that animals whose permanent blemish preceded their consecration are like non-sacred animals, serves **to add** the case of **one who slaughters** such an animal **outside** the Temple courtyard, teaching **that he is exempt.** The phrase: **The principle of the matter, in the latter clause,** which states that redeemed animals whose consecration preceded their permanent blemish are like redeemed sacrificial animals in all matters,

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לַאֲתויֵי חֲלָבוֹ.

serves **to include its milk** in the prohibition, i.e., it is prohibited to consume milk of disqualified consecrated animals that were redeemed.

אָמַר מָר: אֵין נִפְדִּין תְּמִימִין, וְאֵין מַתְפִּיסָן לְכָל זֶבַח שֶׁיִּרְצֶה. תְּמִימִים הוּא דְּלָא מִיפְּרְקִי, הָא בַּעֲלֵי מוּמִין – מִיפְּרְקִי; לְכָל שֶׁיִּרְצֶה הוּא דְּאֵין מַתְפִּיסָן, הָא לְאוֹתוֹ זֶבַח – מַתְפִּיסָן;

The Gemara analyzes the *baraita*. **The Master said** above: With regard to disqualified sacrificial animals whose consecration preceded their blemish, their offspring are sacred and **may not be redeemed** while they are **unblemished, and one may not dedicate them as any offering he desires.** The Gemara infers: **It is** only **unblemished** offspring **that one may not redeem,** which indicates that **one may redeem blemished** offspring. Likewise, **it is** only **for any offering he desires that he may not dedicate** the offspring, **but for the same offering** as the mother, **one may dedicate** the offspring.

הֵיכִי מַשְׁכַּחַתְּ לָהּ? דְּמַתְפִּיסָן לְאוֹתוֹ זֶבַח וְנִפְדִּין בְּמוּמָן. נֵימָא תֵּיהֱוֵי תְּיוּבְתָּא דְּרַב הוּנָא?

The Gemara asks: **How can you find** a situation that includes both of these inferences? They apply in a case **where one dedicates** the unborn offspring **as the same offering** for which its mother was consecrated, **and** it **may** then **be redeemed after** having developed **a blemish.** The Gemara remarks: **Shall we say** that **this is a conclusive refutation of** the opinion of **Rav Huna,** who maintains that the offspring cannot be redeemed and rules that one must leave them to die?

אָמַר לָךְ רַב הוּנָא: הוּא הַדִּין דַּאֲפִילּוּ בַּעֲלֵי מוּמִין אֵין נִפְדִּין, וְאַיְידֵי דְּתָנָא רֵישָׁא נִפְדִּין תְּמִימִים – תָּנָא נַמֵּי סֵיפָא אֵין נִפְדִּין תְּמִימִים; וְאַיְידֵי דְּתָנָא רֵישָׁא לְכָל זֶבַח שֶׁיִּרְצֶה – תָּנָא נַמֵּי סֵיפָא לְכָל זֶבַח שֶׁיִּרְצֶה.

Rav Huna could have **said to you:** The inferences upon which the refutation is based are false. Just as these unblemished offspring cannot be redeemed, **the same is true** with regard to blemished animals, **as even blemished** offspring **cannot be redeemed. And since the former clause taught** the phrase: **They may be redeemed unblemished, the latter clause also taught** the phrase: **They may not be redeemed unblemished. And since the former clause taught: As any offering he desires, the latter clause also taught: As any offering he desires.** According to Rav Huna, no inferences can be made from these rulings of the *baraita* because they were phrased in this manner for the sake of symmetry between its two sections, rather than to teach a specific *halakha*.

״וְהַשּׁוֹחֲטָן בַּחוּץ פָּטוּר״. רַב הוּנָא מַתְנִי: חַיָּיב, וּמוֹקִים לָהּ בִּדּוּקִין שֶׁבָּעַיִן, וְאַלִּיבָּא דְּרַבִּי עֲקִיבָא דְּאָמַר: אִם עָלוּ – לֹא יֵרְדוּ.

It is stated: **And one who slaughters them outside** the Temple courtyard is **exempt**[N] from *karet*. The Gemara notes: **Rav Huna taught** this as: One who slaughters them outside the Temple courtyard **is liable** to receive *karet*, **and he interprets it** as referring to a case involving an animal with a minor blemish, such as **on the cornea**[N] **of the eye. And** the mishna is **in accordance with** the opinion **of Rabbi Akiva, who says:** Although animals with a minor blemish may not be sacrificed *ab initio*, **if they ascended** the altar **they shall not descend** and are sacrificed. Since an animal with a minor blemish is potentially suitable for sacrifice, one who slaughters it outside the Temple courtyard is liable to receive *karet*.

NOTES

And one who slaughters them outside the Temple courtyard is exempt – וְהַשּׁוֹחֲטָן בַּחוּץ פָּטוּר: There is a dispute among the commentaries with regard to the source of this quote. According to Rashi, it is taken from the continuation of the *baraita*, which the Gemara did not previously cite. He maintains that this is referring to animals whose consecration preceded their blemish, and he explains that one is not liable for slaughtering them outside the Temple courtyard because one is liable for slaughtering only an animal that is fit for sacrifice (see *Zevaḥim* 112a). Others write that the Gemara is paraphrasing the *halakha* derived earlier from the phrase: The principle of the matter, in the former clause of the *baraita*. If so, the reference is to animals whose blemish preceded their consecration (Rabbeinu Gershom Meor HaGola).

Apparently, the Rambam understood this as a quote from the mishna rather than the *baraita*, since his version of the text of the mishna reads that one is exempt for slaughtering an animal whose consecration preceded its blemish. If so, the standard version of the mishna follows the emendation of Rav Huna (see also *Shita Mekubbetzet*, citing *Tosafot Ḥitzoniyyot*).

Cornea – דּוּקִין: Some translate this term as cornea, or some other part of the eye. Rashi however, citing Isaiah 40:22 and Leviticus 21:20, seems to interpret this term as referring specifically to some ailment in the eye's membranes that impairs vision, possibly cataracts. Others explain that it is a general term for various ailments of the eye.



Cat with a cataract

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״בֵּין לִפְנֵי פִדְיוֹנוֹ בֵּין לְאַחַר פִּדְיוֹנוֹ עוֹשֶׂה תְּמוּרָה״. אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: וּתְמוּרָתוֹ לְאַחַר פִּדְיוֹנוֹ מֵתָה. מַאי טַעְמָא? הֵיכִי לִיעֲבִיד, לִיקְרְבֵיהּ – מִכֹּחַ קְדוּשָּׁה דְּחוּיָה קָאָתְיָא, לִיפְרְקֵהּ – לָא אַלִּימָא לְמִיתְפַּס פִּדְיוֹנָהּ, הִלְכָךְ מֵתָה.

The Gemara continues analyzing the *baraita*, which teaches: **Whether before its redemption or after its redemption,** an animal whose consecration preceded its blemish **renders** an animal that was **a substitute** for it sacred. **Rav Naḥman says** that **Rabba bar Avuh says: And its substitute** that was imbued with sanctity **after its redemption** must **die. What is the reason?** The Gemara explains: **What are we to do? Shall we sacrifice it?** It cannot be sacrificed, as **it received** its status **from** the **deferred sanctity** of the redeemed blemished animal and is therefore unfit for the altar. **Shall we redeem it?** It cannot be redeemed, as its sanctity **is not strong** enough **to be transferable** to the money for **its redemption. Therefore, it** must **die.**

מַתְקִיף לָהּ רַב עַמְרָם: וְתִיתַכִּיל בְּמוּמָהּ לַבְּעָלִים! וְכִי מַה בֵּין זוֹ לִתְמוּרַת בְּכוֹר וּמַעֲשֵׂר, דִּתְנַן: תְּמוּרַת בְּכוֹר וּמַעֲשֵׂר, הֵן וְוַלְדָּן וּוְלַד וְלָדָן עַד סוֹף כָּל הָעוֹלָם – הֲרֵי הֵן כִּבְכוֹר וּמַעֲשֵׂר, וְיֵאָכְלוּ בְּמוּמָן לַבְּעָלִים!

Rav Amram objects to this: But let the substitute **be eaten in its blemished** state **by the owners.** After all, **what is** the difference **between this** substitute **and the substitute of a firstborn or** of an animal **tithe**[H] offering, which may be eaten? The Gemara explains the question: **As we learned** in a mishna (*Temura* 21a): With regard to **the substitute of a firstborn and** of an animal **tithe** offering, both **they,** the substitutes themselves, **and their offspring, and the offspring of their offspring, forever,** i.e., for all future generations, **are like** the **firstborn and** the animal **tithe** offering, respectively, **and** therefore **they are eaten in their blemished** state **by the owners.** Why is the blemished substitute of a firstborn or an animal tithe permitted whereas the substitute of a disqualified consecrated animal remains forbidden?

אָמַר לֵיהּ אַבַּיֵי: זֶה שֵׁם אִמּוֹ עָלָיו, וְזֶה שֵׁם אִמּוֹ עָלָיו; זֶה כּוֹלּוֹ תְּמוּרַת בְּכוֹר וּמַעֲשֵׂר מִיקְרֵיָא, מַה בְּכוֹר וּמַעֲשֵׂר בְּמוּמָן מִיתְאָכְלָן לַבְּעָלִים – אַף תְּמוּרָתָן מִיתְאָכְלָא.

Abaye said to Rav Amram: **This one bears its mother's name and that one bears its mother's name,** i.e., each substitute is subject to the same *halakha* as the animal for which it was substituted. **This** animal **is entirely called a substitute of a firstborn or** an animal **tithe** offering: **Just as a firstborn and** an animal **tithe** offering **are eaten in their blemished** state **by the owners, so too, their substitute is eaten** even when it is blemished.

וְזֶה שֵׁם אִמּוֹ עָלָיו, תְּמוּרַת קָדָשִׁים מִיקְרֵיָא, מַה קָּדָשִׁים לָא מִיתָּכְלִי אֶלָּא בְּפִדְיוֹן – אַף תְּמוּרָתָן נַמִּי לָא מִיתָּכְלִי אֶלָּא בְּפִדְיוֹן, וְהָא לָא אַלִּימָא לְמִיתְפַּס פִּדְיוֹנָהּ.

And likewise, **this** substitute for a redeemed animal whose consecration preceded its blemish **bears its mothers name,** i.e., **it is called the substitute of a sacrificial** animal: **Just as sacrificial** animals **are eaten only** once they have been rendered permitted **through redemption, so too, their substitutes are also eaten only through redemption. But** the sanctity of **this** particular substitute **is not strong** enough **to be transferable** to money for **its redemption,** and therefore it cannot be redeemed. Consequently, it may not be eaten.

תַּנְיָא כְּוָותֵיהּ דְּרַב נַחְמָן: מִנַּיִן לִתְמוּרַת פְּסוּלֵי הַמּוּקְדָּשִׁין שֶׁמֵּתָה? תַּלְמוּד לוֹמַר: ״מִמַּעֲלֵי הַגֵּרָה...טָמֵא״. הַאי מִיבָּעֵי לֵיהּ לְחֲמֵשׁ חַטָּאוֹת מֵתוֹת! הַהוּא ״מִמַּפְרִיסֵי הַפַּרְסָה...טָמֵא״ נָפְקָא.

The Gemara notes that **it is taught** in a *baraita* **in accordance with** the opinion **of Rav Naḥman: From where** is it derived **with regard to the substitute of disqualified consecrated** animals[H] **that it** must **die?** It is derived from a verse, as **the verse states:** "Nevertheless, these you shall not eat, **of them that** only **chew the cud,** or of them that only have a split hoof… it is **impure** to you" (Leviticus 11:4). The extraneous phrase "impure to you" indicates that there exists an animal which possesses the signs of a kosher animal but is nevertheless prohibited in consumption, and that is the substitute of a disqualified consecrated animal. The Gemara raises an objection: But isn't **that** extraneous phrase **necessary for** the *halakha* of **the five sin offerings** that are left to **die,**[H] which may not be eaten? The Gemara answers: No; **that** *halakha* **is derived** from the phrase: **"Of them that** only **have a split hoof**… is **impure."**

תַּנְיָא נַמִּי הָכִי: מִנַּיִן לְחֲמֵשׁ חַטָּאוֹת מֵתוֹת? תַּלְמוּד לוֹמַר: ״מִמַּפְרִיסֵי הַפַּרְסָה...טָמֵא״. חֲמֵשׁ חַטָּאוֹת מֵתוֹת הֵילְכְתָא גְּמִירִי לָהּ! אֶלָּא, כִּי אֲתָא קְרָא – לִתְמוּרַת אָשָׁם.

The Gemara notes that **this is also taught** in a *baraita*: **From where** is it derived **that** there are **five sin offerings** that are left to **die? The verse states: "Of them that have a split hoof**… is **impure** to you," which indicates that there is a second category of animals that possess the signs of a kosher animal, but that are nevertheless prohibited in consumption. The Gemara raises an objection: But isn't the category of the **five sin offerings** that are left to **die a *halakha* learned** as a tradition, not from a verse? **Rather, when** that **verse came,** it came **to** teach that the **substitute of a guilt offering** may not be sacrificed and is left to graze until it develops a blemish.

HALAKHA

Substitute of a firstborn or of an animal tithe – תְּמוּרַת בְּכוֹר וּמַעֲשֵׂר: The substitute of a firstborn or of an animal tithe may not be sacrificed, and it is left to graze until it develops a blemish, at which point it may be eaten by a priest or the animal's owner, respectively. The same *halakha* applies to the offspring of a substitute (Rambam *Sefer Korbanot*, *Hilkhot Temura* 3:2, 4:6).

Substitute of disqualified consecrated animals – תְּמוּרַת פְּסוּלֵי הַמּוּקְדָּשִׁין: If a consecrated animal developed a permanent blemish and was redeemed, and then one substituted another animal for it after its redemption, that substitute can be neither sacrificed nor redeemed. Rather, it must be left to die (Rambam *Sefer Korbanot*, *Hilkhot Temura* 3:4).

Five sin offerings that are left to die – חֲמֵשׁ חַטָּאוֹת מֵתוֹת: The offspring of a sin offering; an animal substituted for a sin offering; a sin offering whose owners have already achieved atonement through another sin offering; and a sin offering whose owners have died are all left to die. This is a *halakha* transmitted to Moses from Sinai (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 4:1).

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תְּמוּרַת אָשָׁם נַמִּי הֵילְכְתָא הִיא: כָּל שֶׁבְּחַטָּאת מֵתָה – בְּאָשָׁם רוֹעֶה!

The Gemara raises a further objection: The *halakha* of **a substitute for a guilt offering is also a *halakha* learned** as a tradition, as stated in the principle: **In any** case **where a sin offering** is left to **die, a guilt offering** is left to **graze.**[H] Since the substitute of a sin offering is left to die, it is established by tradition that the substitute of a guilt offering is left to graze, and therefore no verse is required to teach this *halakha*.

אֶלָּא לְעוֹלָם חֲמֵשׁ חַטָּאוֹת מֵתוֹת, וְאִצְטְרִיךְ קְרָא וְאִצְטְרִיךְ הֵילְכְתָא: דְּאִי מִקְּרָא הֲוָה אָמֵינָא לְרַעְיָיה, קָא מַשְׁמַע לַן הֵילְכְתָא לְמִיתָה. וְאִי מֵהֵילְכְתָא הֲוָה אָמֵינָא: הֵיכָא דַּעֲבַד אִיקָּרֵי וְאָכַל מֵהֲנֵי חֲמֵשׁ חַטָּאוֹת – אִיסּוּרָא אִיכָּא, לָאו לֵיכָּא, קָמַשְׁמַע לַן דְּאִיכָּא לָאו.

The Gemara answers: **Rather,** the verse is **actually** the source for a *halakha* that applies to the **five sin offerings** left to **die. And** both **a verse is necessary and** the ***halakha*** learned as a tradition **is** also **necessary** to determine the final course of action that one should take. The Gemara elaborates: **If** the concept of the five sin offerings had been derived **from the verse** alone, **I would say** that the five sin offerings are left **to graze.** Therefore, **the *halakha*** learned through tradition **teaches us that** they are left **to die. And if** this ruling were based only **on the *halakha*** learned as a tradition, **I would say:** In a case **where one happened to eat from** one of **these five sin offerings, there is a prohibition** that he violated, **but not a negative mitzva,** for which one is liable to receive lashes. The verse therefore **teaches us that there is a negative mitzva** here as well.

וְאִיבָּעֵית אֵימָא: לְאַקּוּשֵׁי דָּבָר הַבָּא מִמַּעֲלֵי גְּרָה לְדָבָר הַבָּא מִמַּפְרִיסֵי הַפְרָסָה, מָה לְהַלָּן בְּמִיתָה – אַף כָּאן בְּמִיתָה.

And if you wish, say instead that the *halakha* of the five sin offerings left to die is in fact a *halakha* learned as a tradition, and therefore no verse is required for its own sake. Rather, the verse: "Of them that have a split hoof," serves **to juxtapose an item that comes,** i.e., that is derived, **from** the mention of animals **who chew their cud,** referring to the substitutes of disqualified consecrated animals, **with an item that comes from** animals **who have a split hoof,** referring to the five sin offerings: **Just as there,** the sin offerings are left **to die, so too here,** the substitutes are left **to die.**

מתני׳ הַמְקַבֵּל צֹאן בְּרְזֶל מִן הַגּוֹי

MISHNA With regard to **one who receives** animals as part of **a guaranteed investment**[B] **from a gentile,**[N] i.e., the Jew receives the animals to raise them and commits to pay a fixed price at a later date even if they die or their value decreases, and the offspring born in the interim are divided between the gentile and the Jew,

HALAKHA

In any case where a sin offering is left to die, a guilt offering is left to graze – כָּל שֶׁבְּחַטָּאת מֵתָה בְּאָשָׁם רוֹעֶה: A guilt offering whose owner either died or achieved atonement with another animal is left to graze until it is blemished. It is then sold, and the money gained from the sale is allocated for communal gift offerings. The reason is that wherever a sin offering is left to die, in the corresponding case, a guilt offering is left to graze (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 4:14).

BACKGROUND

Guaranteed investment [*tzon barzel*] – צֹאן בְּרְזֶל: This is similar to a term in Roman law that describes the legal standing of certain properties. The expression *tzon barzel* literally means iron sheep; the property is considered like a flock of iron sheep for its owner because it is never lost, as the individual in question accepts upon himself the responsibility to guarantee its value. Furthermore, this property brings no profit to its owners, like iron sheep that do not reproduce, as it only preserves its own value.

NOTES

One who receives animals as a guaranteed investment [*tzon barzel*] from a gentile – הַמְקַבֵּל צֹאן בְּרְזֶל מִן הַגּוֹי: *Tzon barzel* literally means: Iron sheep. This is a kind of agreement made between two parties in which one provides the other with animals in exchange for a fixed payment to be paid at a later date, with any offspring born during the interim divided between the two parties. Some maintain that one must return the actual animals that were supplied, rather than their value (Rabbeinu Gershom Meor HaGola). This arrangement is referred to as: Iron sheep, because although the value of an animal naturally decreases with its age, the value of the animals involved in this agreement is fixed, like iron (Rashi).

Perek **II**
Daf **16** Amud **b**

HALAKHA

Their offspring are exempt, etc. – וְלָדוֹתֵיהֶן פְּטוּרִין וכו׳: In the case of one who accepts a guaranteed investment from a gentile, the offspring of any animal involved in the transaction is not counted a firstborn, in accordance with the opinion of Rava. The reason is that the gentile has some claim to the offspring in the event that the mother animal is worth less than his full dues. The offspring of the direct offspring are subject to the mitzva of a firstborn, as the gentile has no claim to them, in accordance with Rav Huna's interpretation of the mishna (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:4; *Shulḥan Arukh*, *Yoreh De'a* 320:7).

If the Jew established their offspring – הֶעֱמִיד וְלָדוֹתֵיהֶן: In a case where one accepts a guaranteed investment from a gentile and establishes the offspring of the animals in place of the mothers, the offspring of the direct offspring are not subject to the mitzva of a firstborn. The mitzva does apply to all further generations, in accordance with the opinion of Rav Huna (*Shulḥan Arukh*, *Yoreh De'a* 320:7).

וְלָדוֹתֵיהֶן פְּטוּרִין, וְלָדֵי וְלָדוֹתֵיהֶן חַיָּבִין. הֶעֱמִיד וְלָדוֹתֵיהֶן תַּחַת אִמּוֹתֵיהֶן – וַלְדֵי וְלָדוֹת פְּטוּרִין, וּוַלְדֵי וַלְדֵי וְוַלְדוֹת חַיָּבִים. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: אֲפִילּוּ עַד עֲשָׂרָה – פְּטוּרִים, שֶׁאַחֲרָיוּתָן לַגָּבְרִי.

their direct **offspring are exempt**[HN] from the mitzva of the firstborn if they give birth to a male, but **the offspring of their** direct **offspring are obligated**[N] in the mitzva of the firstborn if they gave birth to a male. If the Jew **established their offspring**[H] **in place of their mothers** for collection in case the mothers die, **the offspring of** their direct **offspring are exempt and the offspring of the offspring of** their direct **offspring are obligated. Rabban Shimon ben Gamliel says: Even until ten** generations, the offspring are **exempt, as they** all serve **as a guarantee for the gentile,** because if he does not receive the fixed payment for the animal, he will collect his debt from any offspring born to it or its offspring.

NOTES

Their direct offspring are exempt – וְלָדוֹתֵיהֶן פְּטוּרִין: The offspring are not exempt due to the gentile's partnership with the Jew. Rather, their exemption stems from the fact that they are liened to the gentile, as the Gemara will explain (*Kodshei David*; *Beit Meir*).

The offspring of their direct offspring are obligated – וַלְדֵי וְלָדוֹתֵיהֶן חַיָּבִין: According to some commentaries, the first *tanna* maintains that the second generation of offspring are not liened to the gentile, in contrast to the opinion of Rabban Shimon ben Gamliel (*Reshit Bikkurim*, citing Rambam). Others contend that technically the gentile has the right to collect his dues from the second generation of offspring if he cannot collect it from the first generation. Since he does not do so in practice, the offspring remain subject to the mitzva of a firstborn (Rabbeinu Gershom Meor HaGola).

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רָחֵל שֶׁיָּלְדָה מִין עֵז, וְעֵז שֶׁיָּלְדָה מִין רָחֵל – פְּטוּרָה מִן הַבְּכוֹרָה, וְאִם יֵשׁ בּוֹ מִקְצָת סִימָנִין – חַיָּיב.

A ewe that gave birth to a goat of sorts[BH] **and a goat that gave birth to a ewe of sorts are exempt** from the mitzva of the **firstborn. And if** the offspring **has some of the characteristics** of its mother, it is **obligated** in the mitzva of firstborn.

גמ׳ לְמֵימְרָא, דְּכֵיוָן דְּלָא נָקֵט מָרָא זוּזֵי – בִּרְשׁוּתָא דְּמָרָא קָיְימָא.

GEMARA The mishna teaches that animals given to a Jew as a guaranteed investment by a gentile are not subject to their offspring being counted a firstborn because they belong to the gentile. The Gemara suggests: Is this **to say that since the owner did not** yet **take the money** that will be owed to him, the investment itself **stands in the owner's possession,** i.e., the owner is still regarded as such?

וּרְמִינְהוּ: אֵין מְקַבְּלִין צֹאן בְּרָזֶל מִישְׂרָאֵל מִפְּנֵי שֶׁהוּא רִבִּית; אַלְמָא בִּרְשׁוּתָא דְּמָקַבֵּל קָיְימָא!

And the Gemara **raises a contradiction** to this conclusion from a mishna (*Bava Metzia* 70b): **One may not accept from a Jew** sheep to raise or other items to care for as **a guaranteed investment,**[H] in which the terms of the transaction dictate that the one accepting the item takes upon himself complete responsibility to repay its value in the event of depreciation or loss, but receives only part of the profit. This is **because it** is a loan, as the principal is fixed and always returned to the owner, and any additional sum the owner receives **is interest.** The Gemara remarks: **Evidently,** the investment **stands in the possession of the recipient,** as otherwise it would not be considered a loan.

אֲמַר אַבַּיֵי: לָא קַשְׁיָא, הָא – דְּקַבֵּיל עֲלֵיהּ אוּנְסָא וְגוֹלָא, וְהָא – דְּלָא קַבֵּיל עֲלֵיהּ אוּנְסָא וְגוֹלָא.

Abaye said: This is **not difficult. This** case, i.e., the mishna here, is **where** the gentile owner of the sheep **accepts upon himself** the responsibility for losses due to **an accident or depreciation** in the market value, and that is why the sheep are considered to still belong to him. And **that** case, the mishna in *Bava Metzia*, is **where** the owner **did not accept upon himself** responsibility for losses due to **an accident or depreciation.** Therefore, the guaranteed investment stands in the possession of the recipient.

אֲמַר לֵיהּ רָבָא: דְּקַבֵּיל עֲלֵיהּ אוּנְסָא וְגוֹלָא ״צֹאן בְּרָזֶל״ קָרֵית לֵיהּ? וְעוֹד, מַאי פְּסָקָא?

Rava said to Abaye: **If the owner accepted upon himself** responsibility for losses due to **an accident or depreciation,** can **you call it a guaranteed investment?** This case is not a guaranteed investment, as the owner is not guaranteed to receive what he had given; rather, it is a type of joint business venture that is permitted between two Jews. **And furthermore,** if the term: Guaranteed investment, can refer to two different kinds of investments, then **why** was it stated **without qualification** in both *mishnayot*?

וְעוֹד, אַדְּתָנֵי סֵיפָא: אֲבָל מְקַבְּלִין צֹאן בְּרָזֶל מִן הַגּוֹי – לִיפְלוֹג וְלִיתְנֵי בְּדִידָהּ: בַּמֶּה דְּבָרִים אֲמוּרִים – דְּלָא קַבֵּיל עֲלֵיהּ אוּנְסָא וְגוֹלָא, אֲבָל קַבֵּיל עֲלֵיהּ אוּנְסָא וְגוֹלָא – שַׁפִּיר דָּמֵי!

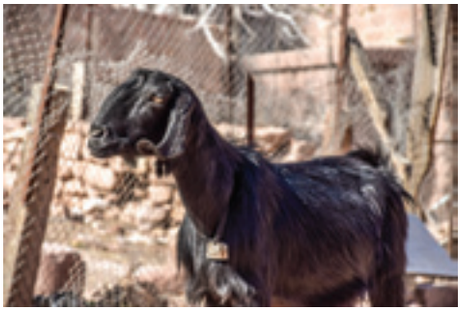
Rava continued: **And furthermore,** even if one grants that this arrangement can be called a guaranteed investment, there is another difficulty. **Instead of** the *tanna* **teaching** in **the latter clause** of the mishna in *Bava Metzia*: **But one may accept a guaranteed investment from gentiles, let** the *tanna* **distinguish and teach within the** case **itself,** that of accepting a guaranteed investment from a Jew. He should have taught: **In what** case **is this statement,** i.e., that one may not accept from a Jew sheep to raise or other items to care for as a guaranteed investment, **said?** It is in a case **when** the owner **did not accept upon himself** responsibility for losses due to **an accident or depreciation, but** if **the owner accepted upon himself** responsibility for losses due to **an accident or depreciation,** one may **well** enter into such an arrangement.

BACKGROUND

Ewe that gave birth to a goat of sorts – רָחֵל שֶׁיָּלְדָה מִין עֵז: There are a number of breeds of goats and sheep, which differ from each other in their characteristics. The descriptions in the Mishna and Talmud indicate that the breed of sheep under discussion is similar to the Awassi breed, a fat-tailed type of sheep common nowadays in Israel. The breed of goats is apparently similar to the Israeli Mamber goat breed, *Capra mambrica*. There are several distinctive characteristics of these animals, which differentiate between the sheep and the goat: The sheep's fleece is white, soft, and curly, as opposed to the black, hard hair of the goats. The sheep has a long, thick, and fatty tail, whereas the goat's tail is short and upright. Furthermore, the lamb has short ears, and the goat kid has long, hanging ears. The male goat has a beard, while the ram does not. Finally, the female goat has horns, whereas the ewe has no horns. They can also be differentiated by the sound of their bleat.



Awassi lamb



Black goat

HALAKHA

Ewe that gave birth to a goat of sorts – רָחֵל שֶׁיָּלְדָה מִין עֵז: A ewe that gives birth to a goat of sorts is not subject to the mitzva of the firstborn. The same applies to a goat that gave birth to a kind of ewe. But if the offspring does have some of the characteristics of its mother, it is counted a firstborn (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:6; *Shulḥan Arukh*, *Yoreh De'a* 315:5).

One may not accept from a Jew a guaranteed investment – אֵין מְקַבְּלִין צֹאן בְּרָזֶל מִישְׂרָאֵל: One may not accept a guaranteed investment from a Jew. For example, it is prohibited to accept one hundred sheep to raise and divide the profits with the owner while obligating oneself to return the original value of the sheep even if they become damaged or decline in value. If the owner of the sheep accepts responsibility for losses due to an accident or depreciation, then it is considered a permitted joint business venture (Rambam *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 8:12; *Shulḥan Arukh*, *Yoreh De'a* 177:1).

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אֶלָּא אֲמַר רָבָא: אִידִי וְאִידִי דְּלָא קַבֵּיל עֲלֵיהּ אוּנְסָא וְזוֹלָא. וְהָכָא גַּבֵּי בְּכוֹרָה הַיְינוּ טַעְמָא: דְּאִילּוּ אָתֵי גּוֹי בָּעֵי זוּזֵי וְלָא יָהֵיב לֵיהּ – תָּפֵיס לָהּ לִבְהֵמָה, וְאִי לָא מַשְׁכַּח לָהּ לִבְהֵמָה – תָּפֵיס וְלָדוֹת דִּידָהּ, וַהֲרֵי יַד גּוֹי בָּאֶמְצַע, וְכָל יַד גּוֹי בָּאֶמְצַע – פְּטוּרָה מִן הַבְּכוֹרָה.

Rather, Rava rejected this explanation and **said:** Both **this** case in the mishna here **and that** case in *Bava Metzia* are discussing a situation where **the owner did not accept upon himself responsibility for** losses due to **an accident or depreciation. And here, with regard to the firstborn, this is the reason** that the offspring are exempt from the *halakhot* of a firstborn: **Since, if** the **gentile comes** and **wants** his **money, and** the Jew **does not give** it **to him,** the gentile will **seize the animal, and if he does not find the animal he will seize the offspring,** this means that **the hand of a gentile is in the middle,** i.e., even though the animals stand in the possession of the recipient, the gentile has some degree of ownership over the bodies of the offspring. **And** there is a *halakha*: In **every** case where **the hand of a gentile is in the middle,** the animal is **exempt from** the *halakhot* of **a firstborn.**

״הֶעֱמִיד וְלָדוֹתֵיהֶן תַּחַת אִמּוֹתֵיהֶן – וַלְדֵי וְלָדוֹת פְּטוּרִים״. אָמַר רַב הוּנָא: וְלָדוֹת פְּטוּרִין, וּוַלְדֵי וְלָדוֹתֵיהֶן חַיָּיבִין. וְרַב יְהוּדָה אָמַר: וְלָדֵי וְלָדוֹת נַמִּי פְּטוּרִין, וּוַלְדֵי וַלְדֵי וְלָדוֹת חַיָּיבִין.

§ The mishna teaches: If the Jew **established their offspring in place of their mothers** for collection in case the mothers die, **the offspring of** their direct **offspring are exempt.** The Gemara cites a dispute with regard to animals involved in a guaranteed investment, in a case where the Jew did not establish their offspring in the place of their mothers. **Rav Huna says:** Their direct **offspring are exempt, but the offspring of their** direct **offspring are obligated. And Rav Yehuda says: The offspring of** their direct **offspring are also exempt, and the offspring of the offspring of** their direct **offspring are obligated.**

תְּנַן: הֶעֱמִיד וְלָדוֹת תַּחַת אִמּוֹתֵיהֶן – וַלְדֵי וְלָדוֹת פְּטוּרִין. טַעְמָא דְּהֶעֱמִיד, הָא לָא הֶעֱמִיד – לָא; תְּיוּבְתָּא דְּרַב יְהוּדָה!

The Gemara raises an objection to the opinion of Rabbi Yehuda. **We learned** in the mishna: If the Jew **established their offspring in place of their mothers** for collection in case the mothers die, **the offspring of** their direct **offspring are exempt.** The Gemara infers: **The reason** they are exempt is **that he established** the offspring in place of their mothers; **but** if **he did not establish** them in place of their mothers, they are **not** exempt. This is apparently **a conclusive refutation** of the opinion **of Rabbi Yehuda.**

אָמַר לָךְ רַב יְהוּדָה: הוּא הַדִּין אַף עַל גַּב דְּלָא הֶעֱמִיד. וְהָא קָא מַשְׁמַע לָן: אֲפִילּוּ הֶעֱמִיד נַמִּי,

The Gemara answers that **Rav Yehuda** could have **said to you:** That inference is incorrect, as **the same is true even though he did not establish** the offspring in place of their mothers. In that case as well, the offspring of their offspring are exempt. **And this** is what the mishna **is teaching us** by stating the *halakha* in that manner: **Even** if **he established** the offspring in place of the mother, only the first two generations of offspring are exempt, but not all successive generations.

דְּאוֹרְחֵיהּ דְּגוֹי לְמִיתְפַּס בְּנָה – וְהָוֵי כְּמִי דְּלָא הֶעֱמִיד, וַלְדֵי וְלָדוֹת – פְּטוּרִין, וּוַלְדֵי וַלְדֵי וְלָדוֹת – חַיָּיבִין.

And it is necessary to teach this *halakha* that although he established the offspring in place of their mothers all successive generations are not exempt, **as** one might think that **it is the** normal **manner of the gentile to seize**[N] not only the direct offspring, but **her young** of any generation as payment, which would mean that all successive generations are exempt. **And** therefore the mishna teaches that he **is like one who did not establish** the offspring in place of the mother, which means that **the offspring of** the direct **offspring are exempt, but the offspring of the offspring of** the direct **offspring are obligated.**

NOTES

As it is the normal manner of the gentile to seize, etc. – דְּאוֹרְחֵיהּ דְּגוֹי לְמִיתְפַּס וכו׳: According to Rashi, the assumption is that in a case where a Jew establishes the offspring in place of the mother, he thereby grants the gentile the authority to collect his dues from wherever necessary, and it is normal for the gentile to collect from all future generations. The mishna therefore teaches that the gentile's reach does not extend past the second generation of offspring (see *Ḥazon Ish*). The Gemara is translated in accordance with Rashi's interpretation.

Others explain that the assumption is that in a case where the Jew establishes the offspring in place of the mother, the gentile's reach extends to the direct offspring alone. According to this interpretation, the mishna is teaching that even in such a case it is the manner of the gentile to seize second-generation offspring, and therefore they are exempt from the mitzva of a firstborn (Rabbeinu Gershom Meor HaGola).

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תְּנַן, רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: אֲפִילּוּ עַד עֲשָׂרָה דּוֹרוֹת פְּטוּרִין, שֶׁאַחֲרָיוּתָן לַגָּבְרִי. בְּשִׁלְמָא לְרַב יְהוּדָה, דְּאָמַר: נָחֵית תַּנָּא קַמָּא לְדָרֵי

The Gemara raises an objection to the opinion of Rav Huna. **We learned** in the mishna that **Rabban Shimon ben Gamliel says: Even until ten generations** the offspring **are exempt, as they serve as a guarantee for the gentile,** because if he does not receive the fixed payment for the animal he will collect his debt from any offspring born to it or its offspring. Rabban Shimon ben Gamliel's use of the term: Even, indicates that he disagrees with the first *tanna* only with regard to how many generations of offspring are exempt, but both agree that at least some generations are exempt. **Granted, according to Rav Yehuda, who says** that, in exempting from firstborn status, **the first *tanna* descended to** two **generational** levels,

Perek **II**
Daf **17** Amud **a**

הַיְינוּ דְּאָמַר לֵיהּ רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל: אֲפִילּוּ עַד עֲשָׂרָה דּוֹרוֹת פְּטוּרִין. אֶלָּא לְרַב הוּנָא דְּאָמַר: לָא נָחֵית תַּנָּא קַמָּא לְדָרֵי – מַאי ״אֲפִילּוּ עַד עֲשָׂרָה דּוֹרוֹת״? אָמַר לָךְ רַב הוּנָא: רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אַ״הֶעֱמִיד״ קָאֵי, דְּנָחֵית לְדָרֵי.

this is what Rabban Shimon ben Gamliel said to him: Even until ten generations, the offspring **are exempt. But according to Rav Huna, who says** that **the first *tanna* did not descend to** any **generational** levels, **what** is the meaning of the phrase: **Even until ten generations?** The Gemara responds: **Rav Huna** could have **said to you** that the statement of **Rabban Shimon ben Gamliel is referring to** the second case of the mishna, where the Jew **established** the offspring in place of the mothers, **as** in that case the first *tanna* also **descends to generational** levels.

תָּא שְׁמַע: הַמְקַבֵּל צֹאן בָּרְזֶל מִן הַגּוֹי, וְלָדוֹת – פְּטוּרִין, וְוַלְדֵי וְלָדוֹת – לֹא. תִּיוּבְתָּא דְּרַב יְהוּדָה! אָמַר לָךְ רַב יְהוּדָה, אֵימָא: ״הֵן וְוַלְדוֹתֵיהֶן״.

The Gemara comments: **Come** and **hear** an objection to the opinion of Rav Yehuda from the mishna: With regard to **one who accepts** animals as part of **a guaranteed investment from a gentile, the** direct **offspring are exempt, and the offspring of the** direct **offspring** are **not** exempt. This is apparently **a conclusive refutation** of the opinion **of Rav Yehuda,** who said that the offspring of the direct offspring are also exempt. The Gemara explains that **Rav Yehuda** could have **said to you: I will say** that the mishna means that **they,** the direct offspring, **and their offspring** are exempt. When the mishna said: The offspring are exempt, it was referring not to the offspring of the original animals given to the Jew, but to the offspring of those offspring.

אִיכָּא דְּאָמְרִי: ״הֵן וְוַלְדוֹתֵיהֶן פְּטוּרִין״, תִּיוּבְתָּא דְּרַב הוּנָא! אָמַר לָךְ רַב הוּנָא, אֵימָא: ״הֵן וְוַלְדוֹת – פָּטוּר, וְוַלְדֵי וְלָדוֹת – חַיָּיב״.

The Gemara notes that **there are** those **who say** that there is a different version of this exchange: The mishna is actually written as: **They,** the direct offspring, **and their offspring are exempt,** which is apparently **a conclusive refutation** of the opinion **of Rav Huna.** The Gemara explains that **Rav Huna** could have **said to you:** One can **say** that the mishna means that **they,** i.e., the original animals given to the Jew, **and** their **offspring are exempt. But the offspring of their** direct **offspring** are **obligated.**

״רָחֵל שֶׁיָּלְדָה מִין עֵז״ כו׳. אֲתָא רַב אוֹשַׁעְיָא מִנְּהַרְדְּעָא וְאַיְיתֵי מַתְנִיתָא בִּידֵיהּ: רָחֵל בַּת עֵז, וְעֵז בַּת רָחֵל – רַבִּי מֵאִיר מְחַיֵּיב, וַחֲכָמִים פּוֹטְרִין.

§ The mishna teaches: **A ewe that gave birth to a goat of sorts** and a goat that gave birth to a ewe of sorts are not subject to the obligation of a firstborn. **Rav Oshaya**[P] **came from Neharde'a and brought a *baraita* in his hand:** With regard to an animal that has the appearance of **a ewe** and that was **born to a goat, or a goat** that was **born to a ewe, Rabbi Meir deems** it **obligated, and the Rabbis deem** it **exempt.**

אָמַר לֵיהּ רַב הוֹשַׁעְיָא לְרַבָּה: כִּי עָיְילַתְּ לְקַמֵּיהּ דְּרַב הוּנָא, בְּעֵי מִינֵּיהּ: רַבִּי מֵאִיר מִיחַיֵּיב לְמַאי? אִילֵּימָא לִבְכוֹרָה – וְלֵית לֵיהּ לְרַבִּי מֵאִיר ״אַךְ בְּכוֹר שׁוֹר״, עַד שֶׁיְּהֵא הוּא שׁוֹר וּבְכוֹרוֹ שׁוֹר?

Rav Hoshaya said to Rabba: When you go before Rav Huna, ask him: With regard **to what** does **Rabbi Meir deem** it **obligated? If we say** that it is **with regard to** the mitzva of **a firstborn,** that is difficult: **But doesn't Rabbi Meir** agree that the verse: **"But the firstborn of an ox"** (Numbers 18:17), teaches that an animal is included in the mitzva of a firstborn **only if it is an ox and its firstborn is an ox?** In other words, the mitzva of the firstborn applies only if the offspring has the appearance of its mother.

PERSONALITIES

Rav Oshaya – רַב אוֹשַׁעְיָא: A few *amora'im* were known by this name, and the reference here is to a third-generation *amora* who was born in Babylonia and lived in Neharde'a. He studied under Rav Yehuda and Rav Huna, the leading Sages of the previous generation, before settling in Eretz Yisrael with Rav Ḥananya, who may have been his brother, to study under Rabbi Yoḥanan. It is said that both Rav Oshaya and Rav Ḥananya were descendants of Eli the Priest, and some claim that the Rabba mentioned here was also their brother. On many occasions, Rav Oshaya would transmit *baraitot* and examine their content, as in the Gemara here.

Aside from his great aptitude for Torah study, he was also known as an exceptionally pious and righteous individual.

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אֶלָּא לְרֵאשִׁית הַגֵּז – וְלֵית לֵיהּ הָא דְּתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: כְּבָשִׂים שֶׁצַּמְרָן קָשֶׁה פְּטוּרִין מֵרֵאשִׁית הַגֵּז, שֶׁנֶּאֱמַר: ״וּמִגֵּז כְּבָשַׂי יִתְחַמָּם״?

Rather, Rabbi Meir's ruling was **with regard to** the obligation of giving **the first** shearing **of wool** to the priest. The Gemara asks: **But** if so, **doesn't** Rabbi Meir agree with **that which the school of Rabbi Yishmael taught: Lambs whose fleece is tough**[H] **are exempt from,** i.e., not subject to giving, **the first** shearing **of wool** to the priest, **as it is stated: "And** if he were not **warmed with the fleece of my sheep"** (Job 31:20)? It is derived from this verse that only a fleece which is fit to warm a person, i.e., fleece that is soft, is classified as wool that must be given to the priest. Since the fleece of the goat-like offspring of a ewe is tough, it should be excluded from the mitzva of the first shearing.

אָמַר לֵיהּ: נֵיחֵזֵי אֵנַן, הָכָא בְּמַאי עָסְקִינַן – בְּרָחֵל שֶׁיָּלְדָה מִין עֵז וְאָבִיו תַּיִּישׁ; וּבְחוֹשְׁשִׁין לְוָלָד הָאָב לְעִנְיַן אוֹתוֹ וְאֶת בְּנוֹ קָמִיפַּלְגִי, דְּרַבִּי מֵאִיר סָבַר: חוֹשְׁשִׁין לְוָלָד הָאָב, וְרַבָּנַן סָבְרִי: אֵין חוֹשְׁשִׁין לְוָלָד הָאָב.

Rabba **said to** Rav Hoshaya: **Let us see; what are we dealing with here?** We are dealing **with a ewe that gave birth to a goat of sorts and its father** was **a goat. And they disagree** as to whether or not **one** needs **to be concerned with** the offspring's **paternity**[H] in terms of **the matter of** the prohibition against slaughtering **itself and its offspring** on the same day. **As Rabbi Meir holds** that **one** needs **to be concerned with its paternity,** and therefore one is liable for slaughtering the male goat and its goat-like offspring in a single day, **and the Rabbis hold** that **one** need **not be concerned with its paternity.**

אִי הָכִי, לִיפְלְגוּ בְּחוֹשְׁשִׁין לְוָלָד הָאָב בְּעָלְמָא, בִּפְלוּגְתָּא דְּחַנַּנְיָה וְרַבָּנַן!

The Gemara objects: But **if that is so,** then let us say that **they disagree** on whether or not **one** needs **to be concerned with** the offspring's **paternity in general,** i.e., with regard to the prohibition against slaughtering an animal and its offspring on the same day, which is the subject **of the dispute of Ḥananya and the Rabbis** (see *Ḥullin* 78b). Instead of citing a dispute in the unusual case of a ewe that gave birth to a goat of sorts, the *baraita* should have simply stated that Rabbi Meir agrees with the opinion of Ḥananya that the prohibition against slaughtering an animal and its offspring applies even to a father and its offspring.

אֶלָּא לְעוֹלָם לִבְכוֹרָה, וְהָכָא בְּמַאי עָסְקִינַן – בְּרָחֵל בַּת רָחֵל בַּת עֵז; מָר סָבַר: זִיל בָּתַר אִימֵּיהּ, וְהַאי לָאו נְדֵמָה הוּא,

Rather, Rabbi Meir's ruling is **actually with regard to** the obligation of **a firstborn, and here we are dealing with a ewe born to a ewe born to a goat,**[H] which means that the offspring is similar in appearance to its mother, but not to its grandmother. One **Sage,** Rabbi Meir, **holds: Follow** the appearance of an offspring's **mother** to determine whether or not the mitzva of a firstborn applies, **and** as **this** offspring has the appearance of its mother, **it** does **not** have the status of an animal that **resembles** a different species. Accordingly, the mitzva of firstborn applies.

וּמָר סָבַר: זִיל בָּתַר אִימֵּיהּ דְּאִימֵּיהּ, וְהַאי נְדֵמָה הוּא.

And one **Sage,** the Rabbis, **holds: Follow** the appearance of the **mother of its mother** to determine whether or not the mitzva of firstborn applies, **and** as **this** offspring does not have the appearance of its mother's mother, **it** does have the status of an animal that **resembles** a different species. Consequently, the mitzva of firstborn does not apply.

וְאִיבָּעֵית אֵימָא: בְּרָחֵל בַּת עֵז בַּת רָחֵל; מָר סָבַר: חָזְרָה שִׁייוּת לְמְקוֹמָן, וּמָר סָבַר: לֹא חָזְרָה שִׁייוּת לְמְקוֹמָן.

And if you wish, say instead that we are dealing **with a ewe born to a goat born to a ewe.** One **Sage,** Rabbi Meir, **holds: Its ovine nature was restored to its** original **state.** That is, since the offspring resembles its older progenitor, the mitzva of firstborn applies. **And** one **Sage,** the Rabbis, **holds: Its ovine nature was not restored to its** original **state,** and in any case where the offspring is not like its mother, it is exempt from the mitzva of firstborn.

רַב אַשִׁי אָמַר: כְּגוֹן שֶׁיֵּשׁ בּוֹ מִקְצָת סִימָנִין, וּמַאן חֲכָמִים – רַבִּי שִׁמְעוֹן, דְּאָמַר: עַד שֶׁיְּהֵא רֹאשׁוֹ וְרוּבּוֹ דּוֹמֶה לְאִמּוֹ.

The Gemara cites another interpretation of the *baraita*. **Rav Ashi says:** The *baraita* is referring to a case **where** the offspring **has some of the characteristics**[H] of its mother, and the opinion of Rabbi Meir is that of the mishna here, which rules that the mitzva of firstborn applies to an offspring that has some of its mother's characteristics. **And who are the Rabbis** who disagree with Rabbi Meir? It is **Rabbi Shimon, who says:** The offspring does not have firstborn status **unless its head and the majority of** its body **are similar to** the appearance of **its mother.**

HALAKHA

Lambs whose fleece is tough – כְּבָשִׂים שֶׁצַּמְרָן קָשֶׁה: The obligation to give the first shearing of wool to the priest applies only to lambs, as their fleece is used to make clothing. If a particular lamb's fleece is tough and unfit to be used for clothing, it is not subject to the mitzva of the first shearing and is not given to a priest (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 10:4; *Shulḥan Arukh*, *Yoreh De'a* 333:2).

Whether or not one needs to be concerned with the offspring's paternity – חוֹשְׁשִׁין לְוָלַד הָאָב: It is a matter of dispute whether the prohibition against slaughtering a parent and its offspring on the same day applies only to a mother and its offspring, or to a father as well. Therefore, if it is known that a particular animal is the father of a particular offspring, one may not slaughter the two in a single day. One who slaughters them is not flogged, as it is uncertain whether the *halakha* is in accordance with the opinion of Ḥananya or that of the Rabbis (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:11; *Shulḥan Arukh*, *Yoreh De'a* 16:2).

Ewe born to a ewe born to a goat – רָחֵל בַּת רָחֵל בַּת עֵז: Some commentaries maintain that the *halakha* is in accordance with the opinion of the Rabbis, following the first explanation of the Gemara, i.e., that a ewe born to a ewe born to a goat, a goat born to goat born to a ewe, and a ewe born to a goat born to ewe are all not counted as firstborn (*Ba'al HaTurim*). The Rambam and *Shulḥan Arukh*, who do not cite this *halakha*, apparently rule in accordance with the explanation of Rav Ashi and the straightforward meaning of the mishna (*Tur* and *Beit Yosef*, *Yoreh De'a*, 315, and see *Piṭḥei Teshuva* there).

Has some of the characteristics – יֵשׁ בּוֹ מִקְצָת סִימָנִין: The goat-like offspring of a ewe and the ewe-like offspring of a goat are counted a firstborn if they possess some of the characteristics of the mother (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:6; *Shulḥan Arukh*, *Yoreh De'a* 315:5).

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אָמַר רַבִּי יוֹחָנָן: מוֹדֶה רַבִּי מֵאִיר בְּשָׂעִיר שֶׁל רֹאשׁ חֹדֶשׁ דְּבָעֵינַן בֶּן שְׁעִירָה, מַאי טַעְמָא? אָמַר קְרָא: ״אֶחָד״ – הַמְיוּחָד וּבָא מִשֵּׁשֶׁת יְמֵי בְּרֵאשִׁית.

According to the second explanation of the *baraita*, Rabbi Meir maintains that a ewe born to a goat born to a ewe is counted a firstborn despite the fact that it does not resemble its mother. **Rabbi Yoḥanan says:** Nevertheless, **Rabbi Meir concedes with regard to the goat of the New Moon**[N] offering **that we require** the **son of a female goat. What is the reason?** With regard to the New Moon offering **the verse states:** "And **one** male goat for a sin offering unto the Lord" (Numbers 28:15). The superfluous word "one" teaches that the offering must be **particularly** a goat, as it **has been since the six days of Creation.**

וְהָא מֵהָכָא נָפְקָא? מֵהָתָם נָפְקָא: ״שׁוֹר אוֹ כֶשֶׂב״ – פָּרַט לְכִלְאַיִם, ״אוֹ עֵז״ – פָּרַט לְנִדְמֶה!

The Gemara asks: **But** is **this derived from here?** Isn't it **derived from there:** "When a bull, or a sheep, or a goat, is brought forth" (Leviticus 22:27), as the phrase **"a bull, or a sheep"** serves **to exclude diverse kinds,** i.e., an animal born from two different species of animals, while the phrase **"or a goat"** serves **to exclude** an animal that **resembles** a different species?[H]

צְרִיכָא, דְּאִי מֵהָתָם הֲוָה אָמִינָא: הָנֵי מִילֵּי הֵיכָא דְּלָא נָחֵת לְדָרֵי, אֲבָל הֵיכָא דְּנָחֵת – אֵימָא לָא. וְאִי מֵהָכָא הֲוָה אָמִינָא: הָנֵי מִילֵּי לְגַבֵּי קָרְבַּן חוֹבָה, אֲבָל נְדָבָה – לָא, צְרִיכָא.

The Gemara answers that both verses are **necessary, as, had** the *halakha* been derived only **from there,** the verse in Leviticus, **I would say: That statement** applies only **where** the resemblance to another species does **not trace back to** earlier **generations,**[N] i.e., the animal does not resemble any of its progenitors, **but** in a case **where it does trace back,** I would **say: No,** the animal is fit for sacrifice. Therefore, it is derived from the verse in Numbers that the animal must be as it has been since the six days of Creation. **And had** it been derived only **from here,** the verse in Numbers, **I would say: That statement** applies only **with regard to an obligatory offering,** which is the subject of that verse, **but** in the case of **a gift** offering, the animal does **not**[N] need to resemble its mother. Therefore, both verses are **necessary.**

אָמַר רַבִּי אַחָא בַּר יַעֲקֹב: הַכֹּל מוֹדִים דְּאֵין לוֹקִין עַל צַמְרוֹ מִשּׁוּם כִּלְאַיִם, שֶׁנֶּאֱמַר: ״לֹא תִלְבַּשׁ שַׁעַטְנֵז״, מַה פִּשְׁתָּן – שֶׁלֹּא נִשְׁתַּנָּה, אַף צֶמֶר – שֶׁלֹּא נִשְׁתַּנָּה.

The Gemara cites a series of statements discussing an animal that resembles another species. **Rabbi Aḥa bar Yaakov says: Everyone concedes that one is not flogged due to** the prohibition of **diverse kinds for** wearing **its wool**[H] together with linen, **as it is stated: "You shall not wear diverse kinds,** wool and linen together" (Deuteronomy 22:11). **Just as linen** is a material **that has not changed, so too,** one is liable only for wearing **wool** from an animal **that has not changed,** i.e., an animal whose appearance does not differ from that of its progenitors.

אָמַר רַב פַּפָּא: הַכֹּל מוֹדִים שֶׁצַּמְרוֹ פָּסוּל לִתְכֵלֶת, שֶׁנֶּאֱמַר: ״לֹא תִלְבַּשׁ שַׁעַטְנֵז... גְּדִלִים תַּעֲשֶׂה לָךְ״, מַה פִּשְׁתָּן – שֶׁלֹּא נִשְׁתַּנָּה, אַף צֶמֶר – שֶׁלֹּא נִשְׁתַּנָּה.

Rav Pappa similarly **says: Everyone concedes that** the **wool** of an animal that resembles another species **is unfit to** be used as the **sky-blue wool**[H] of ritual fringes, **as it is stated: "You shall not wear diverse kinds…you shall make yourself twisted cords"** (Deuteronomy 22:11–12). **Just as linen** is a material **that has not changed, so too,** only **wool** from an animal **that has not changed** may be used as the sky-blue wool.

NOTES

Rabbi Meir concedes with regard to the goat of the New Moon – מוֹדֶה רַבִּי מֵאִיר בְּשָׂעִיר שֶׁל רֹאשׁ חֹדֶשׁ: This applies not only to the goat sacrificed on the New Moon, but also to all the goats sacrificed on the Festivals, as "one" is stated in the Torah with regard to each of them as well (Rashi).

That statement applies only where the resemblance to another species does not trace back to earlier generations – הָנֵי מִילֵּי הֵיכָא דְּלָא נָחֵת לְדָרֵי: The Gemara is translated here in accordance with the interpretation of Rabbeinu Gershom Meor HaGola. Rashi explains that were the *halakha* derived only from the verse in Leviticus, it would be assumed that only an animal whose appearance differs from its mother is considered to resemble another species and is unfit for sacrifice. Accordingly, a ewe born to a goat born to a ewe would be unfit for sacrifice, whereas a ewe born to a ewe born to a goat would be fit (see *Shita Mekubbetzet*).

That statement applies only with regard to an obligatory offering, but in the case of a gift offering it does not – הָנֵי מִילֵּי לְגַבֵּי קָרְבַּן חוֹבָה אֲבָל נְדָבָה לָא: According to some commentaries, the Gemara here concludes that only an animal that is as it has been since the six days of Creation is fit for sacrifice. Accordingly, although Rabbi Meir rules that the goat-like offspring of a ewe is counted a firstborn, he nevertheless maintains that it is unfit for sacrifice (*Ḥazon Ish*; Griz). Others contend that only the goat of the New Moon and other communal offerings must be as they have been since the six days of Creation. By contrast, the *halakha* with regard to other offerings, e.g., the firstborn, is derived from the phrase "or a goat," which excludes only the classic case of an animal that resembles a different species, such as a lamb born to a goat. Accordingly, other animals, such as one that has the appearance of its grandmother but not its mother, are fit for sacrifice (*Sefat Emet*).

HALAKHA

To exclude an animal that resembles a different species – פָּרַט לְנִדְמֶה: An animal that resembles a different species is disqualified from sacrifice upon the altar. Consequently, the ewe-like offspring of a goat and the goat-like offspring of a ewe may not be sacrificed, even if they share some characteristics with the mother. This is because the resemblance to a different species is considered to be a permanent blemish (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:5).

One is not flogged due to the prohibition of diverse kinds for wearing its wool – אֵין לוֹקִין עַל צַמְרוֹ מִשּׁוּם כִּלְאַיִם: One is not flogged due to the prohibition of diverse kinds for wearing linen with the wool of the ewe-like offspring of a goat, in accordance with the statement of Rav Aḥa bar Yaakov. Nevertheless, it is prohibited by rabbinic law, due to the appearance of violating a prohibition (Rambam *Sefer Zera'im*, *Hilkhot Kilayim* 10:2; *Shulḥan Arukh*, *Yoreh De'a* 298:2).

Its wool is unfit to be used as the sky-blue wool – צַמְרוֹ פָּסוּל לִתְכֵלֶת: The wool of the ewe-like offspring of a goat is unfit to be used for ritual fringes on any garment except one made of the same material (*Beit Yosef*, *Oraḥ Ḥayyim* 9). This *halakha* is in accordance with the statement of Rav Pappa (Rambam *Sefer Ahava*, *Hilkhot Tzitzit* 2:1).

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אָמַר רַב נַחְמָן בַּר יִצְחָק: הַכֹּל מוֹדִים שֶׁאֵין צַמְרוֹ מִטַּמֵּא בִּנְגָעִים, שֶׁנֶּאֱמַר: ״בְּבֶגֶד צֶמֶר אוֹ בְּבֶגֶד פִּשְׁתִּים״, מַה פִּשְׁתִּים – שֶׁלֹּא נִשְׁתַּנְּתָה, אַף צֶמֶר – שֶׁלֹּא נִשְׁתַּנְּתָה.

Rav Naḥman bar Yitzḥak likewise **says: Everyone concedes that its wool does not become ritually impure with** leprous **marks,**[H] **as it is stated:** "And when the mark of leprosy is **in** a garment, whether it be **a woolen garment, or a linen garment"** (Leviticus 13:47). **Just as** the **linen** of a garment **has not changed, so too,** only a garment made of **wool** from an animal **that has not changed** can become impure with leprous marks.

אָמַר רַב אַשִׁי, אַף אָנוּ נֹאמַר: הַדְּלָה הַגָּפֶן עַל גַּבֵּי תְּאֵינָה – יֵינוֹ פָּסוּל לִנְסָכִים, מַאי טַעְמָא? ״וֶבַח וְנֶסֶכִים״, מַה וֶּבַח – שֶׁלֹּא נִשְׁתַּנְּתָה, אַף נְסָכִים – שֶׁלֹּא נִשְׁתַּנּוּ.

Rav Ashi says: Along these lines, **we can say also** that if **one trellised a grapevine over a fig**[H] tree, **its wine is unfit** to be used **for libations. What is the reason?** The verse states: **"An offering, and libations"** (Leviticus 23:37). **Just as an offering** must be an animal **that has not changed, so too, libations** must come from wine produced by vines **that were not changed.**

מַתְקִיף לָהּ רָבִינָא: הַדְּלָה פִּשְׁתָּן עַל גַּבֵּי הִיגָא, הָכִי נַמִי דְּלִישְׁתַּנֵּי. אִם כֵּן, לָא מָצֵית אָמְרַתְּ ״מַה פִּשְׁתָּן שֶׁלֹּא נִשְׁתַּנְּתָה״, דְּהָא פִּשְׁתָּן נַמִי מִשְׁתַּנֵּי! אֲמַר לֵיהּ: זֶה – נִשְׁתַּנְּתָה רֵיחוֹ, וְזֶה – לֹא נִשְׁתַּנְּתָה רֵיחוֹ.

Ravina objects to this suggestion: By that reasoning, if **one trellised flax over a shrub,**[B] it should **also** be considered **a changed** product. But **if so, you cannot say** what Rabbi Aḥa bar Yaakov said in his earlier statement: **Just as linen** is a material **that has not changed, as linen also changes** according to Rav Ashi's reasoning. Rav Ashi **said to** Ravina: With regard to **this** wine, **its scent has changed,**[B] **but** with regard to **that** flax, **its scent has not changed,**[N] and therefore its alteration is considered inconsequential.

מתני׳ רָחֵל שֶׁלֹּא בִּיכְּרָה וְיָלְדָה שְׁנֵי זְכָרִים, וְיָצְאוּ שְׁנֵי רָאשֵׁיהֶן כְּאַחַת – רַבִּי יוֹסֵי הַגְּלִילִי אוֹמֵר: שְׁנֵיהֶן לַכֹּהֵן, שֶׁנֶּאֱמַר: ״הַזְּכָרִים לַה׳״. וַחֲכָמִים אוֹמְרִים: אִי אֶפְשָׁר לְצַמְּצֵם, אֶלָּא אֶחָד לוֹ וְאֶחָד לַכֹּהֵן.

MISHNA In the case of **a ewe that had not** previously **given birth, and it gave birth to two males**[H] **and both their heads emerged as one, Rabbi Yosei HaGelili says: Both of them** are given **to the priest, as it is stated** in the plural: "Every firstborn that you have of animals, **the males shall be to the Lord"** (Exodus 13:12). **And the Rabbis say:** It is **impossible** for two events **to coincide precisely,**[N] i.e., their births were not at precisely the same time. **Rather,** one preceded the other, and therefore **one** of the males is given **to** the owner **and one to the priest.**

רַבִּי טַרְפוֹן אוֹמֵר: הַכֹּהֵן בּוֹרֵר לוֹ אֶת הַיָּפֶה. רַבִּי עֲקִיבָא אוֹמֵר: מְשַׁמְּנִין בֵּינֵיהֶן. וְהַשֵּׁנִי יִרְעֶה עַד שֶׁיִּסְתָּאֵב,

Rabbi Tarfon says: The priest chooses the better of the two. **Rabbi Akiva says: They assess** the value of the lambs **between them** and the priest takes the leaner of the two, as will be explained in the Gemara. **And** with regard to **the second** lamb that remains in the possession of the owner, since he may not partake of it due to its uncertain status as a firstborn, it **must graze until it becomes blemished,**[N] at which point he may slaughter and eat it.

HALAKHA

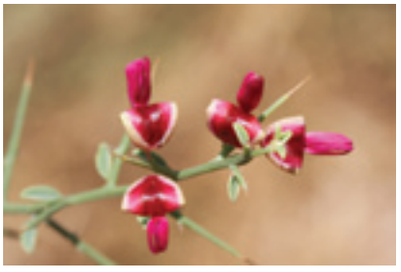
Its wool does not become ritually impure with leprous marks – אֵין צַמְרוֹ מִטַּמֵּא בִּנְגָעִים: The wool of the ewe-like offspring of a goat is not susceptible to the impurity of leprosy, in accordance with the opinion of Rav Naḥman bar Yitzḥak (Rambam *Sefer Tahara*, *Hilkhot Tumat Tzara'at* 13:3).

If one trellised a grapevine over a fig – הִדְּלָה הַגֶּפֶן עַל גַּבֵּי תְּאֵינָה: If one trellised a grapevine over a fig tree, any wine produced from its grapes is unfit for libations, as its scent is altered (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 6:10).

A ewe that had not previously given birth and it gave birth to two males – רָחֵל שֶׁלֹּא בִּיכְּרָה וְיָלְדָה שְׁנֵי זְכָרִים: The *halakha* is in accordance with the opinions of the Rabbis and Rabbi Akiva. Consequently, if two firstborn offspring seem to have emerged as one, it is assumed that one of them actually preceded the other. The priest therefore takes the leaner of the two, and both are then left to graze until they develop a blemish, at which point their respective owners may eat them (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:1, 3; *Shulḥan Arukh*, *Yoreh De'a* 318:1 and *Shakh* there).

BACKGROUND

Shrub – הִיגָא: The camelthorn, *Alhagi maurorum*, is a thorny bush with smooth, non-serrated leaves. It usually grows to a height of approximately 30 cm and can reach a height of 1 m. It is commonly found in fields and salt marshes.



Camelthorn

Its scent has changed – נִשְׁתַּנְּתָה רֵיחוֹ: The quality of wine is often assessed by its scent. The wine's characteristics are determined not only by the type of grape from which it was produced, but also the circumstances in which it grew, which means that soil, climate, and environment affect the final product. Other plants located near the grapevine can affect the wine produced from it as well.

NOTES

But with regard to that flax, its scent has not changed – וְזֶה לֹא נִשְׁתַּנְּתָה רֵיחוֹ: Rabbeinu Gershom Meor HaGola claims that the scent of flax does in fact change, but unlike with wine, people do not care about this change, and therefore it is considered inconsequential. It is possible that Rabbeinu Gershom Meor HaGola had a slightly different version of the text here, which reads: It is not considered a change, rather than: Its scent has not changed.

It is impossible for two events to coincide precisely – אִי אֶפְשָׁר לְצַמְּצֵם: Rashi and the Rambam apparently explain that it is impossible for the two births to have occurred at the exact same moment. Accordingly, the Rabbis interpret the plural "males" in the verse as referring to the collective male offspring, belonging to many individuals, that are counted as firstborns. Others maintain that it is in fact possible for the births to have occurred at the exact same moment, but it is impossible for people to determine this (*Tosafot* on 17b). See Maharit Algazi, who states that according to *Tosafot*, the Rabbis agree with Rabbi Yosei HaGelili's interpretation of the verse and concede that the two births can occur simultaneously in theory. Nevertheless, they contend that since in practice the chances of this happening are miniscule, this possibility has no practical application, and it is not even considered a case of uncertainty. Others contend that even according to *Tosafot*, the Rabbis reject Rabbi Yosei's interpretation of the verse, as the Torah would not mandate a mitzva with regard to an occurrence that is impossible to determine (*Neum Yehuda*).

And the second must graze until it becomes blemished – וְהַשֵּׁנִי יִרְעֶה עַד שֶׁיִּסְתָּאֵב: Rashi notes that the priest's lamb is also left to graze until it develops a blemish. It may not be sacrificed upon the altar, as it is uncertain whether or not it is actually the firstborn. It was necessary for the mishna to state the *halakha* specifically with regard to the owner's lamb, since it remains subject to the mitzva of the priestly gifts, as the mishna proceeds to explain.

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וְחַיָּיב בַּמַּתָּנוֹת, וְרַבִּי יוֹסֵי פּוֹטֵר. מֵת אֶחָד מֵהֶן – רַבִּי טַרְפוֹן אוֹמֵר: יַחֲלוֹקוּ, וְרַבִּי עֲקִיבָא אוֹמֵר: הַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה. זָכָר וּנְקֵבָה – אֵין כָּאן לַכֹּהֵן כְּלוּם.

And when he slaughters the animal he is **obligated to** have **the gifts** of the priesthood taken[H] from it, i.e., the gifts that one is required to give a priest from a non-sacred animal: The foreleg, the jaw, and the maw. **And Rabbi Yosei deems** him **exempt** from giving those gifts. If **one of** the two born together **died,**[H] **Rabbi Tarfon says:** The priest and the owner **divide** the remaining lamb. **Rabbi Akiva says:** Since there is uncertainty to whom it belongs, it remains in the possession of the owner, as **the burden of proof rests upon the claimant.** If **a male and a female**[H] offspring were born together, everyone agrees that **the priest has nothing here.**[N]

גמ׳ אָמְרִי דְּבֵי רַבִּי יַנַּאי: לְרַבִּי יוֹסֵי הַגְּלִילִי שָׁמְעִינַן לֵיהּ דְּאָמַר: אֶפְשָׁר לְצַמְּצֵם בִּידֵי שָׁמַיִם, וְכָל שֶׁכֵּן בִּידֵי אָדָם. וְרַבָּנַן, בִּידֵי שָׁמַיִם אִי אֶפְשָׁר לְצַמְּצֵם, בִּידֵי אָדָם מַאי?

GEMARA The mishna teaches that the Rabbis disagree with Rabbi Yosei HaGelili, maintaining that it is impossible for the time of twins' births to coincide precisely. **They said in the school of Rabbi Yannai: According to Rabbi Yosei HaGelili, we heard** in the mishna **that he says:** It is **possible** for two events that are **in the hands of Heaven to coincide precisely, and all the more so** it is clear that it is possible for two events that are **in human hands** to coincide precisely, as they are intended to be simultaneous. **But** according to **the Rabbis,** evidently they maintain that it is **impossible** for two matters that are **in the hands of Heaven to coincide precisely,** but with regard to events that are **in human hands, what** is their opinion?

תָּא שְׁמַע: חוּט שֶׁל סִיקְרָא חוֹגְרוֹ בָּאֶמְצַע לְהַבְדִּיל בֵּין דָּמִים הָעֶלְיוֹנִים וּבֵין דָּמִים הַתַּחְתּוֹנִים; וְאִי אָמְרַתְּ אִי אֶפְשָׁר לְצַמְּצֵם בִּידֵי אָדָם, זִימְנִין דְּקָא יָהֵיב עֶלְיוֹנִים לְמַטָּה וְתַחְתּוֹנִים לְמַעְלָה! דִּמְרַוַּח בָּהּ פּוּרְתָּא.

The Gemara suggests: **Come** and **hear** a proof from a mishna (*Middot* 3:1): **A red line**[B] **encircled** the altar **in the middle,**[H] **to separate between the blood** that must be presented on **the upper** part of the altar **and the blood** that must be presented on **the lower** section of the altar. **And if you say** that it is **impossible** for two matters that are **in human hands to coincide precisely,** i.e., that people cannot measure the precise midpoint of an area, then that line will not be precisely in the middle, which means that there will be **times when** the priest **puts** blood meant for the **upper** part of the altar upon the **lower** section, **and** blood meant for the **lower** section **above.** The Gemara rejects this proof: In **that** case, **one widens** the line **a little** so that it certainly covers the middle part of the altar.

תָּא שְׁמַע מִמִּדַּת כֵּלִים, מִמִּדַּת מִזְבֵּחַ. שָׁאנֵי הָתָם דְּרַחֲמָנָא אָמַר: עֲבִיד, וּבְכָל הֵיכִי דְּמָצֵית לְמֶיעֱבַד נִיחָא לֵיהּ, ״הַכֹּל בִּכְתָב מִיַּד ה׳ עָלַי הִשְׂכִּיל״.

The Gemara suggests: **Come** and **hear** a proof **from the measurements of** the **vessels** and **from the measurements of** the **altar** of the Temple. Since the Torah gives precise measurements for them, this indicates that it is possible to measure precisely. The Gemara rejects this proof as well: **It is different there, as the Merciful One says: Do** it, **and to whatever extent you can fulfill** His directives, this **finds favor** in His eyes, as the verse states: **"All this in writing,**[N] **as the Lord has made me wise by His hand upon me,** even all the works of this pattern" (1 Chronicles 28:19).

HALAKHA

And is obligated to have the gifts taken – וְחַיָּיב בַּמַּתָּנוֹת: The *halakha* is in accordance with the opinion of Rabbi Yosei HaGelili, which means that if a priest takes an animal whose status as a firstborn is uncertain, its twin is not subject to the mitzva of the priestly gifts. Some rule in accordance with Rabbi Meir that it is subject to the mitzva of the gifts (Rosh; *Tur*). Even among the later authorities this dispute remains unresolved (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 9:3; and see *Taz* and *Shakh* on *Shulḥan Arukh*, *Yoreh De'a* 61:20).

If one of the two born together died – מֵת אֶחָד מֵהֶן: If one of two male twins that are the first offspring of a ewe dies, the priest receives nothing, as the burden of proof is upon the claimant, who in this case is the priest. Instead, the remaining twin is left to graze until it develops a blemish, at which point it may be eaten (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:1, 3; *Shulḥan Arukh*, *Yoreh De'a* 318:1).

A male and a female – זָכָר וּנְקֵבָה: If male and female twins are the first offspring of a ewe, the priest receives nothing because it is possible that the female was born first, and in order to claim the male he must prove otherwise. Instead, the male is left to graze until it develops a blemish, at which point it may be eaten (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:1, 3; *Shulḥan Arukh*, *Yoreh De'a* 318:1).

A red line encircled the altar in the middle – חוּט שֶׁל סִיקְרָא חוֹגְרוֹ בָּאֶמְצַע: A red line encircled the altar in the middle in order to separate between the blood that is presented on the upper part of the altar and the blood that is presented on the lower part (Rambam *Sefer Avoda*, *Hilkhot Beit HaBeḥira* 2:9).

BACKGROUND

Red line – חוּט שֶׁל סִיקְרָא: The external altar was bisected by a red line around it at half its height.



View of the altar from the south

NOTES

If a male and a female were born together the priest has nothing here – זָכָר וּנְקֵבָה אֵין כָּאן לַכֹּהֵן כְּלוּם: Rashi maintains that this is the *halakha* only according to the Rabbis, who hold that the two offspring could not have been born simultaneously, and the priest must prove that the male was born first. Others write that this *halakha* applies even according to Rabbi Yosei HaGelili, as the verse states: "You shall set apart to the Lord all that which opens the womb" (Exodus 13:12), from which it is derived that only male offspring that open the entire womb are counted firstborn (see 9b). Here, the female also opened part of the womb, and the male is therefore not considered a firstborn (*Tosafot*). The commentaries note that this dispute has a practical ramification: According to Rashi, the male is left to graze until it develops a blemish, as it might actually be the firstborn. According to *Tosafot*, the offspring is completely non-sacred and may be eaten immediately (Rashash).

All this in writing, etc. – הַכֹּל בִּכְתָב וכו׳: At first glance, this verse has no relevance to the Gemara's argument. In fact, Rashi states that it should be omitted. There is a different version of the text, which reads: It is different there because the Merciful One said it, as it is written: "All this in writing." In other words, the proof is rejected not because whatever a person can manage is sufficient, but because there God gave a guarantee that the measurements of the vessels and altar would be perfectly precise, as the verse states: "The Lord has made me wise by His hand upon me, even all the works of this pattern" (*Shita Mekubbetzet*). If so, the standard version of the text might actually be an amalgamation of two different explanations (see Rabbeinu Gershom Meor HaGola).

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אֲמַר רַב קְטִינָא, תָּא שְׁמַע: חִלְּקוֹ לִשְׁנַיִם וְהֵן שָׁוִין – שְׁנֵיהֶן טְמֵאִים, לְפִי שֶׁאִי אֶפְשָׁר לְצַמְצֵם. אֲמַר רַב כָּהֲנָא: שָׁאנֵי כְּלִי חֶרֶס – הוֹאִיל וְיֵשׁ בּוֹ גוּמּוֹת.

Rav Ketina said: Come and **hear** a different proof from a *baraita*: An earthenware vessel that became ritually impure can be purified only by being broken. If it is broken in two, the larger piece remains impure while the smaller piece becomes pure. If **one divided** an impure earthenware oven **into two** pieces **and they are equal** in size,[H] **both are ritually impure, because** it is **impossible** for the two **to coincide precisely,** i.e., one cannot measure exactly. **Rav Kahana said,** in rejection of this proof: **An earthenware vessel is different, since it has indentations in it,** i.e., the place of the break is uneven and is therefore particularly difficult to measure precisely.

תָּא שְׁמַע: נִמְצָא מְכוּוָּן בֵּין שְׁתֵּי עֲיָירוֹת – שְׁתֵּיהֶן מְבִיאוֹת שְׁתֵּי עֶגְלוֹת, דִּבְרֵי רַבִּי אֱלִיעֶזֶר; מַאי טַעְמָא?

The Gemara suggests: **Come** and **hear** another proof from a mishna (*Sota* 45b): With regard to a case involving the heifer whose neck is broken,[B] if the slain person **was found precisely between two towns, the two** towns **bring two heifers** between them; this is **the statement of Rabbi Eliezer. What is the reason** that each town must bring a heifer?

לָאו מִשּׁוּם דְּקָסָבַר: בִּידֵי אָדָם אֶפְשָׁר לְצַמְצֵם, וּ"קְרוֹבָה" – וַאֲפִילּוּ קְרוֹבוֹת?

Is it **not because** Rabbi Eliezer **holds:** With regard to matters that are **in human hands,** it is **possible** for two matters **to coincide precisely? And** Rabbi Eliezer also holds that when the verse states, in the singular: "And it shall be that the town which is **nearest** to the slain man, even the elders of that town shall take a heifer of the herd" (Deuteronomy 21:3), it is not necessarily referring to only one town, but **even to** the two **nearest** towns, if they are equidistant from the corpse. If it were impossible for both towns to be measured as precisely the same distance from the corpse, they would not bring two heifers but one in partnership, stipulating that it belongs to the town that is actually closer.

לָא, רַבִּי אֱלִיעֶזֶר

The Gemara rejects this: **No, Rabbi Eliezer**

HALAKHA

If one divided an earthenware oven into two pieces and they are equal in size – חִלְּקוֹ לִשְׁנַיִם וְהֵן שָׁוִין: If an impure earthenware oven was split into two equal pieces, they both remain ritually impure because it is impossible to determine which is the smallest, as stated in the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Kelim* 16:2).

BACKGROUND

Heifer whose neck is broken – עֶגְלָה עֲרוּפָה: When a murder victim's corpse is found outside a town and the identity of the murderer is unknown, the Torah mandates the following course of action (see Deuteronomy 21:1–9): First, members of the Great Sanhedrin measure the distance between the corpse and the nearby towns, and the town found to be nearest to the corpse must perform the rite of the heifer whose neck is broken. This measurement is performed even if it is obvious which town is closest. Next, the elders of that town bring a heifer that has never been used for any labor and break its neck in a riverbed that has not been tilled. The elders wash their hands and recite a statement absolving themselves of guilt. If the murderer is discovered before the heifer is killed, the rite is not performed.

Perek **II**
Daf **18** Amud **a**

סָבַר לָהּ כְּרִבִּי יוֹסֵי הַגְּלִילִי, דְּאָמַר: אֶפְשָׁר לְצַמְצֵם בִּידֵי שָׁמַיִם, וְכָל שֶׁכֵּן בִּידֵי אָדָם.

holds in accordance with the opinion of **Rabbi Yosei HaGelili, who says:** It is **possible** for two matters that are **in the hands of Heaven to coincide precisely, and all the more so** matters that are **in human hands.** Consequently, one cannot cite Rabbi Eliezer's opinion in order to determine the opinion of the Rabbis.

נֵימָא כְּתַנָּאֵי: נִמְצָא מְכוּוָּן בֵּין שְׁתֵּי עֲיָירוֹת – לֹא הָיוּ עוֹרְפִין, רַבִּי אֱלִיעֶזֶר אוֹמֵר: שְׁתֵּיהֶן מְבִיאוֹת שְׁתֵּי עֶגְלוֹת; מַאי לָאו בְּהָא קָמִיפַּלְגִי, דְּתַנָּא קַמָּא סָבַר אִי אֶפְשָׁר לְצַמְצֵם, וְרַבִּי אֱלִיעֶזֶר סָבַר אֶפְשָׁר לְצַמְצֵם?

The Gemara suggests: **Let us say** that this **is subject** to a dispute between ***tanna'im,*** as it is taught in a *baraita*: If the corpse of a slain person **was found precisely between two towns,**[H] **they would not break the** heifer's **neck** at all. **Rabbi Eliezer says: The two** towns **bring two heifers** between them. **What, is it not** correct to say that **they disagree with regard to** this matter, in **that the first *tanna* holds** that it is **impossible** for two matters **to coincide precisely**[N] **and Rabbi Eliezer holds** that it is **possible** for two matters **to coincide precisely?**

NOTES

The first *tanna* holds that it is impossible for two matters to coincide precisely – דְּתַנָּא קַמָּא סָבַר אִי אֶפְשָׁר לְצַמְצֵם: Rashi explains that according to the first *tanna*, each town can claim that it is not the nearest, and therefore neither brings a heifer. Others write that the mitzva applies only to the town that is known with certainty to be the nearest; if it is possible that another town is nearer, the mitzva does not apply (Rabbeinu Gershom Meor HaGola). Still others suggest that as it is impossible for two matters to coincide precisely, and yet the measurement indicates that the two towns are equidistant from the corpse, evidently the measurement was not performed properly. Since the requirement: "And they shall measure" (Deuteronomy 21:2), was not fulfilled, the heifer cannot be brought (*Ḥiddushei HaGriz*).

HALAKHA

If a slain person was found precisely between two towns – נִמְצָא מְכוּוָּן בֵּין שְׁתֵּי עֲיָירוֹת: The *halakha* is in accordance with the opinion of the Rabbis, i.e., it is impossible to measure precisely even matters that are in human hands. Accordingly, if the corpse of a slain person was found between two towns, they bring a single heifer jointly and stipulate that it is brought for the town that is actually nearest (Rambam *Sefer Nezikin*, *Hilkhot Rotze'aḥ UShmirat HaNefesh* 9:8).

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וְתִיסְבְּרָא? אִי קָסָבַר תַּנָּא קַמָּא אִי אֶפְשָׁר לְצַמְּצֵם, אַמַּאי לֹא הָיוּ עוֹרְפִים? יָבִיאוּ עֶגְלָה אַחַת בְּשׁוּתָּפוּת וְיִתְּנוּ!

The Gemara rejects this suggestion: **And** how can **you understand** that to be the dispute? **If the first *tanna* holds** that it is **impossible** for two matters **to coincide precisely, why** does he claim that **they would not break the** heifer's **neck?** Let **them bring one heifer in partnership and stipulate** that it is brought for the town that is actually nearest.

אֶלָּא לָהֲנֵי תַּנָּאֵי דְּכוּלֵי עָלְמָא אֶפְשָׁר לְצַמְּצֵם. וְהָכָא בִּ"קְרוֹבָה" וְלֹא קְרוֹבוֹת קָמִיפַּלְגִי, דְּתַנָּא קַמָּא סָבַר: "קְרוֹבָה" – וְלֹא קְרוֹבוֹת, וְרַבִּי אֱלִיעֶזֶר סָבַר: "קְרוֹבָה" – וַאֲפִילּוּ קְרוֹבוֹת.

Rather, with regard to these *tanna'im*, everyone agrees that it is **possible** for two matters **to coincide precisely. And here they disagree** over whether the singular form *kerova* in the phrase "the town which is **nearest** [***kerova***]" indicates that only the nearest town brings a heifer, **and not the** many **nearest** [***kerovot***] towns; **as the first *tanna* holds** that it is derived from the term "***kerova***" that only the nearest town brings a heifer, **and not** multiple ***kerovot*; and Rabbi Eliezer holds** that although the verse states "***kerova*,"** nevertheless this includes **even** multiple towns that are ***kerovot*.**

מַאי הֲוֵי עֲלָהּ? אָמַר רַב חִיָּיא בַּר אָבִין אָמַר רַב עַמְרָם, תָּנָא: נִמְצָא מְכוּוָּן בֵּין שְׁתֵּי עֲיָירוֹת, רַבִּי אֱלִיעֶזֶר אוֹמֵר: שְׁתֵּיהֶן מְבִיאוֹת שְׁתֵּי עֶגְלוֹת, וַחֲכָמִים אוֹמְרִים: יָבִיאוּ עֶגְלָה אַחַת בְּשׁוּתָּפוּת וְיִתְּנוּ.

The Gemara asks: **What** conclusion **was** reached **about** the Rabbis' opinion with regard to whether matters in human hands can coincide precisely? **Rav Ḥiyya bar Avin says** that **Rav Amram says:** The Sages **taught** in a *baraita*: If the slain person **was found precisely between two towns, Rabbi Eliezer says: The two** towns **bring two heifers** between them; **and the Rabbis say: They bring one heifer in partnership and stipulate** that it is brought for the town that is nearest.

מַאי קָסָבְרִי רַבָּנַן? אִי קָסָבְרִי רַבָּנַן דְּאֶפְשָׁר לְצַמְּצֵם, וּ"קְרוֹבָה" וַאֲפִילּוּ קְרוֹבוֹת – לַיְיתֵי תְּרָתֵי! וְאִי "קְרוֹבָה" וְלֹא קְרוֹבוֹת – אֲפִילּוּ חֲדָא לָא לַיְיתֵי! אֶלָּא לָאו שְׁמַע מִינָּהּ קָסָבְרִי רַבָּנַן: אִי אֶפְשָׁר לְצַמְּצֵם וַאֲפִילּוּ בִּידֵי אָדָם, שְׁמַע מִינָּהּ.

What do the Rabbis hold in this regard? **If the Rabbis hold that** is **possible** for two matters that are **in human hands to coincide precisely, and** the singular "***kerova***" includes **even** multiple towns, ***kerovot*,** then **they should bring two** heifers. **And if** they hold that "***kerova***" indicates: **But not *kerovot*,** then **they should not bring even one** heifer. **Rather,** must one **not conclude from** it that **the Rabbis hold:** It is **impossible** for two matters **to coincide precisely, and** this is true **even** with regard to matters that are **in human hands?**[H] Indeed, **conclude from it** that this is so.

"רַבִּי טַרְפוֹן אוֹמֵר בּוֹרֵר לוֹ אֶת הַיָּפֶה". מַאי טַעְמָא דְּרַבִּי טַרְפוֹן? קָא סָבַר: הַהוּא דְּבָרְיֵא נָפַק בְּרֵישָׁא.

§ The mishna teaches that in the case of a ewe that gave birth for the first time to two male offspring whose heads emerged as one, **Rabbi Tarfon says: The priest chooses the better** of the two. The Gemara asks: **What is the reasoning of Rabbi Tarfon? He holds** that it is presumed that **the healthier** and better of the two **emerged first,** and therefore it belongs to the priest.

"רַבִּי עֲקִיבָא אוֹמֵר מְשַׁמְּנִין" כו'. אָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: הַכֹּהֵן נוֹטֵל כְּחוּשָׁה. אָמַר לֵיהּ רַבִּי חִיָּיא בַּר אַבָּא לְרַבִּי יוֹחָנָן: וְהָא אֲנַן "מְשַׁמְּנִין בֵּינֵיהֶן" תְּנַן! אָמַר לֵיהּ: עַד דַּאֲכַלְתְּ כַּפְנֵיָּיתָא בְּבָבֶל, תַּרְגֵּימְנָא מְסֵיפָא.

The mishna further teaches that **Rabbi Akiva says: They assess** the value of the lambs between them. **Rabbi Ḥiyya bar Abba**[P] **says** that **Rabbi Yoḥanan says:** According to Rabbi Akiva, **the priest takes the leaner**[H] of the two. **Rabbi Ḥiyya bar Abba said to Rabbi Yoḥanan: But didn't we learn** that **they assess** the value of the offspring **between them,** which indicates that the priest and owner divide their value? Rabbi Yoḥanan **said to him: While you were eating dates in Babylonia,**[BN] **we** in Eretz Yisrael **explained it** based **on the latter clause** in the mishna.

HALAKHA

It is impossible for two matters to coincide precisely, and even with regard to matters that are in human hands – אִי אֶפְשָׁר לְצַמְּצֵם וַאֲפִילּוּ בִּידֵי אָדָם: According to the Rambam, the *halakha* follows the opinion of the Rabbis (see *Peri Megadim* on *Shulḥan Arukh*, *Yoreh De'a* 23:11). Others rule in accordance with the opinion of Rabbi Yosei HaGelili that it is possible to precisely measure matters that are in human hands, as is indicated in *Eiruvin* 16b (*Tosafot*; Rosh). Both opinions are cited in the *Shulḥan Arukh* (Rambam *Sefer Nezikin*, *Hilkhot Rotze'aḥ UShmirat HaNefesh* 9:8; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 648:11, and see 631:8).

The priest takes the leaner – הַכֹּהֵן נוֹטֵל כְּחוּשָׁה: If a ewe gave birth for the first time to male twins, the priest takes the leaner of the two, as it is impossible to know which was actually born first. This *halakha* follows Rabbi Yoḥanan's interpretation of Rabbi Akiva's ruling (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:1, 3; *Shulḥan Arukh*, *Yoreh De'a* 318:1).

PERSONALITIES

Rabbi Ḥiyya bar Abba – רַבִּי חִיָּיא בַּר אַבָּא: Born in Babylonia, Rabbi Ḥiyya bar Abba was a third-generation *amora* who immigrated to Eretz Yisrael in his youth, where he was fortunate to study from Sages of the first generation of *amora'im*, including Rabbi Yehoshua ben Levi. His primary teacher in Eretz Yisrael was Rabbi Yoḥanan, whom he cites hundreds of times in the Talmud. Rabbi Ḥiyya was extremely poor and was at some point compelled to leave Eretz Yisrael and travel to Babylonia in order to earn a living. As noted here, he eventually returned to Eretz Yisrael, where he lived for many years.

BACKGROUND

Dates [*kafneyata*] in Babylonia – כַּפְנֵיָּיתָא בְּבָבֶל: Babylonia was famous for its dates, where they were a symbol of agriculture. The term used here, *kafneyata*, apparently refers to the panicle, a cluster of flowers on the tree. While the flowers are still young, they are juicy and edible. Some explain that *kafneyata* refers to unripe dates.



Date panicle



Unripe dates

NOTES

While you were eating dates [*kafneyata*] in Babylonia – עַד דַּאֲכַלְתְּ כַּפְנֵיָּיתָא בְּבָבֶל: Rashi explains that this was an expression of scorn: While you were yet pampering yourself and eating dates in Babylonia, we had already explained this matter in Eretz Yisrael. Others are puzzled by Rabbi Yoḥanan's use of the term *kafneyata*, which usually refers to inferior dates and does not fit the context here (*Tosafot*). Therefore, *Tosafot* interpret Rabbi Yoḥanan's remark as follows: It would have been preferable for you to come to me and apply yourself to the study of Torah rather than eating inferior dates in Babylonia. Some suggest that *kafneyata* means unripe dates, and Rabbi Yoḥanan intended this as a subtle admonition: Your assessment was too hasty, like unripe dates, as you should have waited and studied the latter clause of the mishna instead of jumping to conclusions.

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דְּקָתָנֵי סֵיפָא: מֵת אֶחָד מֵהֶן – רַבִּי טַרְפוֹן אוֹמֵר: יַחֲלוֹקוּ, רַבִּי עֲקִיבָא אוֹמֵר: הַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה; וְאִי סָלְקָא דַּעְתָּךְ "מְשַׁמְּנִין בֵּינֵיהֶן" דְּכִי הֲדָדֵי פְּלִיגִי – הָכִי נַמִּי לִפְלִגֵי גַּבֵּי הֲדָדֵי! אֶלָּא מַאי "מְשַׁמְּנִין" – שׁוּמָּן יְהֵא בֵּינֵיהֶן, דְּאָמַר לֵיהּ לַכֹּהֵן: אַייְתֵי רְאָיָה דִּבְכוֹר הוּא, וּשְׁקוֹל.

As the latter clause teaches: If one of the two born together **died, Rabbi Tarfon says:** The priest and the owner **divide** the remaining lamb, and **Rabbi Akiva says:** Since there is uncertainty to whom it belongs, it remains in the possession of the owner, as **the burden of proof rests upon the claimant. And if it enters your mind** that when Rabbi Akiva said that **they assess** the value between them he meant **that they divide** the value **between them,** then in the latter clause **too, let them divide** the value of the remaining offspring **between them** instead of leaving it with the owner. **Rather, what does: They assess** [***meshammenin***]ʟ the value between them, mean? It means that the additional **fat** [***shumman***] of the better twin **will be** the subject of dispute **between them, as** the owner **says to the priest: Bring a proof that** the better one **is the firstborn, and take it.**

"וְהַשֵּׁנִי יִרְעֶה עַד שֶׁיִּסְתָּאֵב וְחַיָּיב בַּמַּתָּנוֹת, וְרַבִּי יוֹסֵי פּוֹטֵר". מַאי טַעְמָא דְּרַבִּי מֵאִיר? אָמַר רַבִּי יוֹחָנָן: הוֹאִיל וְכֹהֵן בָּא עָלָיו מִשְּׁנֵי צְדָדִין, דְּאָמַר לֵיהּ: אִי בְּכוֹר הוּא – כּוּלֵּיהּ דִּידִי הוּא, אִי לָא בְּכוֹר הוּא – הַב לִי מַתָּנוֹת מִינֵּיהּ.

§ The mishna teaches: **And the second** lamb that remains in the possession of the owner **must graze until it becomes blemished,** at which point he may slaughter and eat it, **and** he is **obligated to** have **the gifts** of the priesthood, i.e., the foreleg, the jaw, and the maw, taken from it; **and Rabbi Yosei deems** him **exempt** from giving those gifts. The Gemara asks: **What is the reasoning of Rabbi Meir,** whose opinion is the ruling cited first in the mishna? **Rabbi Yoḥanan says:** The owner is obligated **since the priest comes upon him from two sides,** i.e., by force of two complementary claims, **as** the priest **says to him: If** the second lamb **is** in fact the **firstborn, it is mine** in its **entirety, and if it is not** the **firstborn,** at least **give me the** priestly **gifts from it.**

וְרַבִּי יוֹסֵי מַאי טַעְמָא? אָמַר רָבָא: עָשׂוּ שָׁאֵינוֹ זוֹכֶה כְּזוֹכֶה, וְאַף עַל גַּב דְּלָא מָטָא לִידֵיהּ – כְּמַאן דְּמָטָא לִידֵיהּ, וְזַבְּנֵיהּ לְיִשְׂרָאֵל בְּמוּמֵיהּ.

And what is the reasoning of Rabbi Yosei, who deems the owner exempt from giving the priestly gifts from the second animal? **Rava says:** In this particular case, the Sages **rendered one who did not acquire** the animal **like one who acquired**ʜɴ the animal. **And** therefore, **even though** the second lamb of the Israelite **did not** actually **enter** the priest's **possession,** it is considered **as** though **it entered** the priest's **possession and he** then **sold it to the Israelite in its blemished** state, in exchange for the lamb he received. The owner can then claim that perhaps it is the firstborn, and he already fulfilled his obligation of giving it to the priest.

אָמַר רַבִּי אֶלְעָזָר: הַכֹּל מוֹדִים בְּסֵפֶק בְּכוֹר שֶׁאֵין חֲלִיפִין בְּיַד כֹּהֵן – שֶׁחַיָּיב בַּמַּתָּנוֹת.

§ **Rabbi Elazar says: Everyone concedes** in the case of an animal with **uncertain firstborn** status, the **replacement** for which **is not in the possession of the priest,**ʜ **that it is obligated to** have **gifts** of the priesthood taken from it. In other words, in a case where the priest receives neither offspring, e.g., when a male and female are born together, all agree that the owner must give the gifts to the priest.

"הַכֹּל מוֹדִים" מַאן, רַבִּי יוֹסֵי? פְּשִׁיטָא! עַד כָּאן לָא קָא פָּטַר רַבִּי יוֹסֵי הָתָם – אֶלָּא דַּחֲלִיפִין בְּיַד כֹּהֵן, דְּעָשׂוּ שָׁאֵינוֹ זוֹכֶה כְּזוֹכֶה, אֲבָל אֵין חֲלִיפִין בְּיַד כֹּהֵן – לָא!

The Gemara asks: When Rabbi Elazar said that **everyone concedes,** to **whom** was he referring? Was he referring to **Rabbi Yosei?** That seems **obvious.** After all, **Rabbi Yosei deemed** the owner **exempt** from giving the gifts **only there, where the replacement is in the possession of the priest, as** the Sages **rendered one who did not acquire** the animal **like one who acquired** the animal. **But** if **the replacement is not in the possession of the priest,** evidently Rabbi Yosei does **not** rule that one is exempt, as his reasoning does not apply. Why, then, is the statement of Rabbi Elazar necessary?

LANGUAGE

Assess [*meshammenin*] – מְשַׁמְּנִין: The root *shin*, *mem*, *nun* is used in the Bible in reference to increasing fat or weight. Some interpret the term *meshammenin* here in a similar manner. Others associate this with the mishnaic word *shuma*, meaning an estimate or appraisal.

HALAKHA

The Sages rendered one who did not acquire like one who acquired – עָשׂוּ שָׁאֵינוֹ זוֹכֶה כְּזוֹכֶה: If there is uncertainty with regard to which of two animals is the firstborn, and the priest took one of them, the other is not subject to the mitzva of gifts, as the Sages instituted that the priest should be treated as though he had acquired it previously and then returned it to the owner in its blemished state. The *halakha* is in accordance with the opinion of Rabbi Yosei (see *Gittin* 30a). Some rule in accordance with the opinion of Rabbi Meir that it is subject to the mitzva of the gifts (Rosh; *Tur*). This matter is subject to a dispute among the later authorities as well (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 9:3; *Shulḥan Arukh*, *Yoreh De'a* 61:20, and *Shakh* and *Taz* there).

An animal with uncertain firstborn status, the replacement for which is not in the possession of the priest – סֵפֶק בְּכוֹר שֶׁאֵין חֲלִיפִין בְּיַד כֹּהֵן: An animal whose firstborn status is uncertain is subject to the mitzva of the priestly gifts, in accordance with the opinion of Rabbi Elazar. The reason is that whichever way the matter is considered, those parts of the animal belong to the priests: If it is a firstborn, then the entire animal should be given to the priests; if not, then the priestly gifts belong to them (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 9:3; *Shulḥan Arukh*, *Yoreh De'a* 61:20).

NOTES

The Sages rendered one who did not acquire like one who acquired – עָשׂוּ שָׁאֵינוֹ זוֹכֶה כְּזוֹכֶה: The early commentaries ask: Why did the Sages institute an ordinance that results in a leniency for the Israelite, as he is thereby exempt from giving the gifts? They answer that according to Rabbi Yosei in any case the owner is exempt from giving the priestly gifts, as he can say to priest: If this animal is the firstborn, I have already given you an animal in its stead; if you claim that it is not a firstborn, then it is incumbent upon you to prove it in order to receive the gifts (*Shita Mekubbetzet*). The later commentaries explain that the Sages instituted this ordinance in order to ensure that the Israelite would fulfill the mitzva of giving the firstborn to a priest. Since the priest is considered to have exchanged the two animals, both have entered the priest's possession at some point and the mitzva was fulfilled (Maharit Algazi; *Reshit Bikkurim*).

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מַהוּ דְּתֵימָא, טַעְמָא דְּרַבִּי יוֹסֵי – דְּקָסָבַר דְּאִי מְחַיֵּיבְתְּ לֵיהּ בַּמַּתָּנוֹת אָתֵי לֵיהּ לִידֵי גִּיזָּה וַעֲבוֹדָה, אַף עַל גַּב דְּאֵין חֲלִיפִין בְּיַד כֹּהֵן, קָא מַשְׁמַע לָן.

The Gemara answers that Rabbi Elazar's statement is in fact necessary, **lest you say** that the **reason Rabbi Yosei** deems him exempt from giving the gifts is **that he holds that if you deem him obligated in the gifts, he** will assume that the animal is completely non-sacred and **come to** use it for **shearing and labor.** Consequently, **even though there is no replacement in the hands of the priest,** the Sages ruled that one is exempt from giving the gifts, in order to ensure that he does not violate the prohibition against shearing the animal or using it for labor. Rabbi Elazar therefore **teaches us** that this is not the *halakha*, as Rabbi Yosei agrees that one is obligated to give the priestly gifts in such circumstances.

וּמִי מָצֵית אָמְרַתְּ הָכִי? וְהָתָנֵי סֵיפָא: שֶׁהָיָה רַבִּי יוֹסֵי אוֹמֵר:

The Gemara objects: **And how can you say this? But doesn't the latter clause** of the mishna (18b) **teach: As Rabbi Yosei says:**

Perek **II**
Daf **18** Amud **b**

כָּל שֶׁחֲלִיפָיו בְּיַד כֹּהֵן – פָּטוּר מִן הַמַּתָּנוֹת, וְרַבִּי מֵאִיר מְחַיֵּיב; חֲלִיפִין בְּיַד כֹּהֵן – אֵין, אֵין חֲלִיפִין בְּיַד כֹּהֵן – לָא!

With regard to **any** animal **whose replacements** are **in the possession of the priest,** its owner **is exempt from** the mitzva of giving **the** priestly **gifts, and Rabbi Meir deems** him **obligated** to give the gifts. Evidently, in a case where the **replacement is in the possession of the priest, yes,** Rabbi Yosei rules that the owner is exempt from giving the gifts, but if the **replacement is not in the possession of the priest,** he is **not** exempt.

מַהוּ דְּתֵימָא, רַבִּי יוֹסֵי לִדְבָרָיו דְּרַבִּי מֵאִיר קָאָמַר לֵיהּ: לְדִידִי – אֲפִילּוּ אֵין חֲלִיפִין בְּיַד כֹּהֵן, דְּאִי מְחַיֵּיבְתְּ לֵיהּ בְּמַתָּנוֹת – אָתֵי לֵיהּ לִידֵי גִּיזָּה וַעֲבוֹדָה. לְדִידָךְ – אוֹדֵי לִי מִיהָא הֵיכָא דַּחֲלִיפִין בְּיַד כֹּהֵן, דְּעָשׂוּ שֶׁאֵינוֹ זוֹכֶה כְּזוֹכֶה! וַאֲמַר לֵיהּ רַבִּי מֵאִיר: לָא.

The Gemara explains that even so, Rabbi Elazar's statement is necessary, **lest you say** that **Rabbi Yosei** was not expressing his own opinion but **stated** his opinion **in accordance with the statement of Rabbi Meir,** i.e., he said to him: **In my** opinion, the Israelite is exempt from giving the priestly gifts **even** if the **replacement is not in the possession of the priest, as, if you deem him obligated in the gifts,** he might think that the animal is completely non-sacred and **come to** use it for **shearing and labor.** But even **according to your** reasoning, **at least concede to me** in a case **where the replacement is in the possession of the priest, that** the Sages **rendered one who did not acquire** the animal **like one who acquired** the animal. **And Rabbi Meir said to** Rabbi Yosei: **No,** I do not concede in that case. Accordingly, Rabbi Elazar is teaching that Rabbi Yosei does, in fact, maintain that the reason for the Israelite's exemption is that the replacement is in the possession of the priest.

וְאָמַר רַב פַּפָּא: הַכֹּל מוֹדִים בְּסֵפֶק מַעֲשֵׂר שֶׁפָּטוּר מִן הַמַּתָּנוֹת. "הַכֹּל מוֹדִים" מַאן, רַבִּי מֵאִיר? פְּשִׁיטָא! עַד כָּאן לָא קָמְחַיֵּיב רַבִּי מֵאִיר הָתָם אֶלָּא בְּסֵפֶק בְּכוֹר, הוֹאִיל וּבָא עָלָיו כֹּהֵן מִשְּׁנֵי צְדָדִין, אֲבָל סֵפֶק מַעֲשֵׂר – לָא!

And Rav Pappa says with regard to the dispute between Rabbi Meir and Rabbi Yosei: **Everyone concedes** in the case **of** an animal whose status as **tithe** is **uncertain**[H] **that** its owner **is exempt from** the mitzva of **the** priestly **gifts.** The Gemara asks: When Rav Pappa says that **everyone concedes,** to **whom** is he referring? Is he referring to **Rabbi Meir?** That would seem **obvious.** After all, **Rabbi Meir deemed** one **obligated** to give the gifts **only there,** in the case **of** an animal whose status as **firstborn** is **uncertain, since** the priest **comes upon** the Israelite **from two sides. But** with regard to an animal whose status as **tithe** is **uncertain** Rabbi Meir does **not** rule that one is obligated, as that reasoning does not apply. Why, then, is Rav Pappa's statement necessary?

מַהוּ דְּתֵימָא: טַעְמָא דְּרַבִּי מֵאִיר דְּלָא תִּשְׁתַּכַּח תּוֹרַת מַתָּנוֹת – אֲפִילּוּ סֵפֶק מַעֲשֵׂר נַמִּי, קָא מַשְׁמַע לָן.

The Gemara explains that the statement of Rav Pappa is necessary **lest you say** that the **reason that Rabbi Meir** deems him obligated in the gifts is so **that the** halakhic **category of the gifts should not be forgotten;** if so, the same would apply **even** in the case of an animal whose status as **tithe** is **uncertain.** Rav Pappa therefore **teaches us** otherwise.

HALAKHA

An animal whose status as tithe is uncertain – סֵפֶק מַעֲשֵׂר: An animal whose status as tithe is uncertain is not subject to the mitzva of the priestly gifts, as the burden of proof rests upon the claimant, in accordance with the opinion of Rav Pappa (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 9:3).

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וּמִי מָצֵית אָמְרַתְּ הָכִי? וְהָקָתָנֵי סֵיפָא, שֶׁהָיָה רַבִּי יוֹסֵי אוֹמֵר: כָּל שֶׁחֲלִיפָיו בְּיַד כֹּהֵן – פָּטוּר מִן הַמַּתָּנוֹת, וְרַבִּי מֵאִיר מְחַיֵּיב!

The Gemara asks: **And how can you say this? But doesn't the latter clause teach: As Rabbi Yosei says:** With regard to **any** animal **whose replacements are in the possession of a priest,** its owner **is exempt from** the mitzva of giving **the** priestly **gifts, and Rabbi Meir deems** him **obligated** to give the gifts. Evidently, the basis for the dispute between Rabbi Meir and Rabbi Yosei is not whether an obligation is imposed so that the halakhic category of the priestly gifts should not be forgotten, but whether the Sages rendered one who did not acquire the animal like one who acquired the animal, which means that an animal whose replacement is in the priest's possession is not subject to the mitzva of the gifts.

מַהוּ דְּתֵימָא: רַבִּי מֵאִיר אֲפִילּוּ סְפֵק מַעֲשֵׂר מְחַיֵּיב, וְהָא דְּמִיפַּלְגִי בַּחֲלִיפִין – לְהוֹדִיעֲךָ כֹּחוֹ דְּרַבִּי יוֹסֵי, דְּפָטַר אֲפִילּוּ הֵיכָא דְּכֹהֵן בָּא עָלָיו מִשְּׁנֵי צְדָדִין, קָא מַשְׁמַע לָן.

The Gemara explains that Rav Pappa's statement is necessary **lest you say: Rabbi Meir deems** one **obligated** to give the gifts even in the case of an animal whose status as **tithe** is **uncertain,** in order that the halakhic category of the gifts should not be forgotten. **And** as for the fact **that** the mishna presents their **disagreement with regard to replacement** animals, this serves **to convey to you the far-reaching nature** of the opinion **of Rabbi Yosei, who deems** one **exempt** from the mitzva of the gifts **even** in a case **where** the priest **comes upon** the Israelite **from two sides.** Rav Pappa therefore **teaches us** that in fact Rabbi Meir exempts one from the mitzva of the priestly gifts in the case of an animal whose tithed status is uncertain.

״מֵת אֶחָד מֵהֶן רַבִּי טַרְפוֹן אוֹמֵר יַחֲלוֹקוּ״. אַמַּאי יַחֲלוֹקוּ? נֵיחֲזֵי, אִי שָׁמֵן מִית – דְּכֹהֵן הוּא, וְהַאי דְּאִיבָּא – דְּבַעַל הַבַּיִת; וְאִי כָּחוּשׁ מִית – דְּבַעַל הַבַּיִת מִית, וְהַאי דְּאִיבָּא – דְּכֹהֵן הוּא! אָמַר [רַבִּי] אַמִּי: חָזַר בּוֹ רַבִּי טַרְפוֹן.

§ The mishna teaches: If **one of** the two born together **died, Rabbi Tarfon says:** The priest and the owner **divide** the remaining lamb. The Gemara asks: **Why** should they **divide** it? **Let us see:** According to Rabbi Tarfon, who holds that it is presumed that the healthier and better of the two emerged first, as explained earlier, **if** the **fatter** and better of the two **died** it should be assumed **that it** was the one that belonged **to the priest, and this** one **that is** left belongs **to the owner. And if the leaner** of the two **died,** it should be assumed that the animal **of the owner died, and this** one **that is** left belongs **to the priest.** Rabbi **Ami said:** In fact, **Rabbi Tarfon retracted**[N] his previous ruling that the priest takes the better of the two, and instead ruled that the priest and owner divide the value of the offspring in all cases. The mishna was not emended to reflect the updated ruling.

״רַבִּי עֲקִיבָא אוֹמֵר הַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה״. אָמַר רַבִּי חִיָּיא: מָשָׁל לְדִבְרֵי טַרְפוֹן לְמָה הַדָּבָר דּוֹמֶה – לִשְׁנַיִם שֶׁהִפְקִידוּ אֵצֶל רוֹעֶה, שֶׁמִּנִּיחַ רוֹעֶה בֵּינֵיהֶם וּמִסְתַּלֵּק.

§ The mishna teaches: In a case where two animals were born together and one of them died, **Rabbi Akiva says:** The living offspring remains in the possession of the owner, as **the burden of proof rests upon the claimant. Rabbi Ḥiyya stated a parable** that clarifies the opinion **of Rabbi Tarfon,** who says that the priest and the owner divide the remaining lamb: **To what is this matter comparable?** It is comparable **to two** people **who** each **deposited** a sheep **with a shepherd**[H] and one of the two sheep died, and it is unclear to whom it belonged. In **that** case, the **shepherd places** the remaining sheep **between them and withdraws,** leaving them to divide the value of the sheep between them. Likewise, the mishna is discussing a case where the live offspring is not in the possession of either the owner or the priest, and therefore it is divided between them.

NOTES

Rabbi Tarfon retracted – חָזַר בּוֹ רַבִּי טַרְפוֹן: As noted in several places, even where it is known that a *tanna* retracted a particular ruling, the mishna is not emended to reflect the updated ruling. This is the principle of: A mishna does not move from its place (see *Avoda Zara* 35b), i.e., once it has been taught in a certain manner, the *tanna* will not change the text of a mishna in order to reflect a change of opinion, so as to avoid confusion.

HALAKHA

Two people who each deposited a sheep with a shepherd – שְׁנַיִם שֶׁהִפְקִידוּ אֵצֶל רוֹעֶה: In a case where two male animals, one of which was a firstborn, were deposited by the owners in the care of a third party and one of the animals then died, if it is unknown which of the two died, the value of the remaining animal is divided between the two owners and is considered an animal whose firstborn status is uncertain. This ruling is in accordance with the statement of Rava, as Rabbi Akiva and Rabbi Tarfon agree in this case (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:5; *Shulḥan Arukh*, *Yoreh De'a* 317:1).

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וּמָשָׁל דְּרַבִּי עֲקִיבָא לְמָה הַדָּבָר דּוֹמֶה – לְאָדָם שֶׁהִפְקִיד אֵצֶל בַּעַל הַבַּיִת, שֶׁהַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה.

And Rabbi Ḥiyya also stated **a parable** that clarifies the opinion **of Rabbi Akiva: To what is this matter comparable?** It is comparable **to one who deposited** a sheep **with a homeowner,**[H] who had sheep of his own, and it is unknown whose sheep died. In **that** case, **the burden of proof rests upon the claimant.** Since the remaining sheep is currently in the possession of the homeowner, the one who deposited the animal must prove that the living sheep belongs to him. Likewise, the mishna is discussing a case where the live offspring is in the possession of the owner, and therefore the burden of proof rests upon the priest.

אֶלָּא בְּמַאי פְּלִיגִי? רַבִּי עֲקִיבָא פָּלֵיג בִּשְׁנַיִם שֶׁהִפְקִידוּ אֵצֶל רוֹעֶה, שֶׁמַּנִּיחַ רוֹעֶה וּמִסְתַּלֵּק, וְרַבִּי טַרְפוֹן פָּלֵיג בְּאֶחָד שֶׁהִפְקִיד אֵצֶל בַּעַל הַבַּיִת? אָמַר רָבָא וְאִיתֵּימָא רַב פַּפָּא: הַכֹּל מוֹדִים בִּשְׁנַיִם שֶׁהִפְקִידוּ אֵצֶל רוֹעֶה – שֶׁמַּנִּיחַ רוֹעֶה בֵּינֵיהֶם וּמִסְתַּלֵּק, וּבְאֶחָד שֶׁהִפְקִיד אֵצֶל בַּעַל הַבַּיִת – שֶׁהַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה.

The Gemara asks: **But** if Rabbi Tarfon and Rabbi Akiva are addressing different circumstances, then **with regard to what** matter **do they disagree?** Does **Rabbi Akiva disagree** with the conclusion in the parable mentioned with regard to Rabbi Tarfon's opinion, **of two** people **who** each **deposited** a sheep **with a shepherd, that** the **shepherd places** the remaining sheep between them **and withdraws? And** similarly, does **Rabbi Tarfon disagree** with the conclusion in the case **of one who deposited** a sheep **with a homeowner** that the homeowner keeps the remaining sheep? Certainly not. Rather, **Rava says, and some say** it was **Rav Pappa** who says: **Everyone concedes** in the case **of two who deposited** sheep **with a shepherd that** the **shepherd places** it **between them and withdraws, and** everyone concedes in the case **of one who deposited** a sheep **with a homeowner that the burden of proof rests upon the claimant.**

לֹא נֶחְלְקוּ אֶלָּא בַּחֲצַר בַּעַל הַבַּיִת וְרוֹעֶה כֹּהֵן; רַבִּי טַרְפוֹן סָבַר: אַקְנוּיֵי קָא מַקְנֵי לֵיהּ בְּחֲצֵירוֹ, וְנֵיחָא לֵיהּ דְּלִיתְעֲבִיד מִצְוָה, וַהֲוָה לֵיהּ כִּשְׁנַיִם שֶׁהִפְקִידוּ אֵצֶל רוֹעֶה, שֶׁמַּנִּיחַ רוֹעֶה בֵּינֵיהֶן וּמִסְתַּלֵּק.

Rabbi Akiva and Rabbi Tarfon **disagree only** where the offspring were born **in the courtyard of the homeowner, and** the **shepherd is a priest**[H] to whom the homeowner usually gives his firstborn animals. **Rabbi Tarfon holds:** The homeowner **transfers to** the priest a portion **of his courtyard** so that the priest should acquire the firstborn offspring located there, because it is **suitable for him that** the **mitzva** of giving the firstborn to a priest **should be performed.** Therefore, the priest is considered to hold partial jurisdiction of the courtyard. **And** consequently, **this is** comparable **to two** people **who** each **deposited** a sheep **with a shepherd** and one of the two sheep died, **where** the **shepherd places** the remaining sheep **between them and withdraws,** leaving them to divide the value of the sheep between themselves.

וְרַבִּי עֲקִיבָא סָבַר: כֵּיוָן דְּאִית לֵיהּ פְּסִידָא – לָא מַקְנֵי לֵיהּ מִידָּעַם, וַהֲוָה לֵיהּ כְּאֶחָד שֶׁהִפְקִיד אֵצֶל בַּעַל הַבַּיִת, שֶׁהַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה.

And Rabbi Akiva holds: Since there is a loss to the owner in this case of uncertainty, **he does not transfer anything** to the priest. **And** as the courtyard belongs exclusively to the Israelite, this case **is** comparable **to one who deposited** a sheep **with a homeowner** who had sheep of his own, and it is unknown whose sheep died. The *halakha* in **that** case is that **the burden of proof rests upon the claimant.**

HALAKHA

אֶחָד שֶׁהִפְקִיד אֵצֶל בַּעַל הַבַּיִת – One who deposited a sheep with a homeowner: In a case where a firstborn animal was deposited with a homeowner who had a non-sacred animal of his own, and one of the animals died, if the identity of the living animal is unknown, it remains in the possession of the homeowner, as the burden of proof rests upon the claimant. The remaining animal is considered an animal whose firstborn status is uncertain. This *halakha* is in accordance with the statement of Rava, as Rabbi Akiva and Rabbi Tarfon agree in this case (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:6; *Shulḥan Arukh*, *Yoreh De'a* 317:2).

בַּחֲצַר בַּעַל הַבַּיִת וְרוֹעֶה כֹּהֵן – In the courtyard of the homeowner and the shepherd is a priest: The *halakha* is in accordance with the opinion of Rabbi Akiva in the case of a shepherd who was a priest and left animals in a homeowner's courtyard. Consequently, in a case where the firstborn of one of the animals became mingled with a non-firstborn animal of the homeowner and one of them died, if the identity of the living animal is unknown it remains in the possession of the homeowner, as the burden of proof rests upon the claimant. See Maharit Algazi with regard to the opinion of the Rambam (*Shulḥan Arukh*, *Yoreh De'a* 317:3).

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מתני׳ שְׁתֵּי רְחֵילָיו שֶׁלֹּא בִּיכְּרוּ וְיָלְדוּ שְׁנֵי זְכָרִים – שְׁנֵיהֶם לַכֹּהֵן. זָכָר וּנְקֵבָה – הַזָּכָר לַכֹּהֵן. שְׁנֵי זְכָרִים וּנְקֵבָה – אֶחָד לוֹ וְאֶחָד לַכֹּהֵן. רַבִּי טַרְפוֹן אוֹמֵר: הַכֹּהֵן בּוֹרֵר לוֹ אֶת הַיָּפֶה. רַבִּי עֲקִיבָא אוֹמֵר: מְשַׁמְּנִין בֵּינֵיהֶן. וְהַשֵּׁנִי יִרְעֶה עַד שֶׁיִּסְתָּאֵב.

MISHNA

If **one's two ewes had not** previously **given birth and they gave birth to two males,**[H] **both of them** are given **to the priest,** as each is its mother's firstborn. If one gave birth to **a male and** the other to **a female, the male** is given **to the priest,** as it is its mother's firstborn. If they gave birth to **two males and a female,**[H] **one** of the males is kept **by him and one** is given **to the priest. Rabbi Tarfon says: The priest chooses the better** of the two. **Rabbi Akiva says: They assess** the value of the lambs **between them,** and the priest takes the leaner of the two. **And the second** lamb must **graze until it becomes blemished,** at which point the owner may slaughter and eat it.

וְחַיָּיב בַּמַּתָּנוֹת, רַבִּי יוֹסֵי פּוֹטֵר. מֵת אֶחָד מֵהֶן – רַבִּי טַרְפוֹן אוֹמֵר: יַחֲלוֹקוּ. רַבִּי עֲקִיבָא אוֹמֵר: הַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה. שְׁתֵּי נְקֵבוֹת וְזָכָר אוֹ שְׁנֵי זְכָרִים וּשְׁתֵּי נְקֵבוֹת – אֵין כָּאן לַכֹּהֵן כְּלוּם.

And when the owner slaughters the animal, he is **obligated to** have **gifts** of the priesthood, i.e., the foreleg, the jaw, and the maw, taken from it. **Rabbi Yosei deems** him **exempt** from giving the gifts. If **one of** the two born together **died,**[H] **Rabbi Tarfon says:** The priest and the owner **divide** the value of the remaining lamb. **Rabbi Akiva says:** Since there is uncertainty to whom it belongs, it remains in the possession of the owner, as **the burden of proof rests upon the claimant.** If they gave birth to **two females and a male or** to **two males and two females,**[H] **the priest has nothing here,** as perhaps both ewes gave birth to females first.

אַחַת בִּיכְּרָה וְאַחַת לֹא בִּיכְּרָה וְיָלְדָה שְׁנֵי זְכָרִים – אֶחָד לוֹ וְאֶחָד לַכֹּהֵן. רַבִּי טַרְפוֹן אוֹמֵר: הַכֹּהֵן בּוֹרֵר אֶת הַיָּפֶה. רַבִּי עֲקִיבָא אוֹמֵר: מְשַׁמְּנִין בֵּינֵיהֶן. וְהַשֵּׁנִי יִרְעֶה עַד שֶׁיִּסְתָּאֵב.

If **one** of his ewes **had** previously **given birth and one had not** previously **given birth,**[H] **and they gave birth to two males, one** of the males is kept **by him and one** is given **to the priest. Rabbi Tarfon says: The priest chooses the better** of the two. **Rabbi Akiva says: They assess** the value of the lambs **between them** and the priest takes the leaner of the two. **And the second** lamb must **graze until it becomes blemished,** at which point he may slaughter and eat it.

וְחַיָּיב בַּמַּתָּנוֹת. רַבִּי יוֹסֵי פּוֹטֵר, שֶׁרַבִּי יוֹסֵי אוֹמֵר: כָּל שֶׁחֲלִיפָיו בְּיַד כֹּהֵן – פָּטוּר מִן הַמַּתָּנוֹת. וְרַבִּי מֵאִיר מְחַיֵּיב. מֵת אֶחָד מֵהֶן – רַבִּי טַרְפוֹן אוֹמֵר: יַחֲלוֹקוּ. רַבִּי עֲקִיבָא אוֹמֵר: הַמּוֹצִיא מֵחֲבֵירוֹ עָלָיו הָרְאָיָה. זָכָר וּנְקֵבָה – אֵין כָּאן לַכֹּהֵן כְּלוּם.

And when he slaughters the animal he **is obligated to** have **gifts** of the priesthood taken from it. **Rabbi Yosei deems** him **exempt** him from giving those gifts, **as Rabbi Yosei says:** With regard to **any** animal **whose replacements are in the possession of a priest,** its owner **is exempt from** the mitzva of giving **the** priestly **gifts. And Rabbi Meir deems** him **obligated** to give the gifts. If **one of** the animals **died, Rabbi Tarfon says:** The priest and the owner **divide** the value of the remaining lamb. **Rabbi Akiva says:** Since there is uncertainty to whom it belongs, it remains in the possession of the owner, as **the burden of proof rests upon the claimant.** If **a male and a female** offspring were born together, everyone agrees that **the priest has nothing here,** as perhaps the one that had already given birth bore the male, and the one that had not given birth bore the female, in which case neither of the animals would have firstborn status.

HALAKHA

If one's two ewes had not previously given birth and they gave birth to two males, etc. – שְׁתֵּי רְחֵילָיו שֶׁלֹּא בִּיכְּרוּ וְיָלְדוּ שְׁנֵי זְכָרִים וכו׳: If two ewes that had not previously given birth each gave birth to a male offspring, both are given to the priest. If one gave birth to a male and the other a female, the male is given to the priest (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:2; *Shulḥan Arukh*, *Yoreh De'a* 318:2).

Two males and a female – שְׁנֵי זְכָרִים וּנְקֵבָה: If one of two ewes that had not previously given birth gave birth to two males while the other gave birth to a female, and the animals became intermingled, the priest takes the leaner of the two males while the other remains in the possession of the owner. Both males are considered an animal whose firstborn status is uncertain and may be eaten once they develop a blemish. This *halakha* is in accordance with the opinion of Rabbi Akiva (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:2–3; *Shulḥan Arukh*, *Yoreh De'a* 318:2, 6, and see *Shakh* there).

If one of the two born together died – מֵת אֶחָד מֵהֶן: In a case where it is uncertain which of two animals is a firstborn and one of them dies, the priest receives nothing, as it is incumbent upon him to prove that the remaining animal is the firstborn. The *halakha* is in accordance with the opinion of Rabbi Akiva (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:2; *Shulḥan Arukh*, *Yoreh De'a* 318:2).

If they gave birth to two females and a male or to two males and two females – שְׁתֵּי נְקֵבוֹת וְזָכָר אוֹ שְׁנֵי זְכָרִים וּשְׁתֵּי נְקֵבוֹת: If two ewes which had not previously given birth each gave birth to a female and a male, or collectively gave birth to two females and a male, the priest receives nothing. The reason is that each of the males is of uncertain firstborn status, as it is possible that the female twin was born first (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:2; *Shulḥan Arukh*, *Yoreh De'a* 318:3).

If one of his ewes had previously given birth and one had not previously given birth, etc. – אַחַת בִּיכְּרָה וְאַחַת לֹא בִּיכְּרָה וכו׳: In a case where one of two ewes had not previously given birth and the other had given birth, if they gave birth to two males and it is uncertain which male was born to which ewe, the priest receives the leaner of the two. If one gave birth to a male and the other to a female, the priest receives nothing, as he must prove that the male was born to the ewe that had not previously given birth (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:2; *Shulḥan Arukh*, *Yoreh De'a* 318:4).

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גמ׳ צְרִיכָא, דְּאִי אַשְׁמוּעִינַן קַמַּיְיתָא – בְּהַהִיא קָאָמַר רַבִּי עֲקִיבָא, דִּתְרֵי מֵחֲדָא,

GEMARA This mishna and the previous mishna (17a–b) listed three cases in which Rabbi Akiva rules that the priest receives the leaner of two potentially firstborn offspring, whereas Rabbi Tarfon maintains that he receives the better of the two. The Gemara notes: It was **necessary** to teach each of these three cases, **as, had** the mishna **taught** only **the first** case, that of a single ewe that gave birth to two male offspring, one might have thought that **Rabbi Akiva stated** his opinion only **in that** case, **as** the **two** offspring came **from one** womb, and there is no reason to assume that the better offspring was born first.

אֲבָל רְחֵילָיו שֶׁלֹּא בִּיכְּרוּ, דִּתְרֵי מֵחֲדָא וְחַד מֵחֲדָא – אֵימָא מוֹדֵי לֵיהּ לְרַבִּי טַרְפוֹן דְּהָךְ דִּילִידָא חַד שְׁבִיחַ טְפֵי.

But in the second case, that of **his two ewes** which **had not** previously **given birth** and which collectively gave birth to two males and a female, **where two** offspring came **from one** mother **and one** offspring came **from one** other mother, one might **say** that Rabbi Akiva **concedes to** the opinion **of Rabbi Tarfon,** as it can be claimed **that** the **superior** animal is **this** one that came from the mother **that gave birth to a single** offspring.

וְאִי אַשְׁמוּעִינַן הָא – בְּהָא קָאָמַר רַבִּי עֲקִיבָא דְּתַרְוַיְיהוּ לָא בִּיכְּרוּ, אֲבָל אַחַת בִּיכְּרָה וְאַחַת שֶׁלֹּא בִּיכְּרָה וְיָלְדוּ שְׁנֵי זְכָרִים – אֵימָא מוֹדֵי לֵיהּ לְרַבִּי טַרְפוֹן,

And had the mishna **taught** only **that** second case, one might have thought that **Rabbi Akiva stated** his opinion only **in that** case, **as both** mothers **had not** previously **given birth. But** in a case where **one had** previously **given birth and** the other **one had not** previously **given birth, and** collectively they **gave birth to two male** offspring, one might **say** that Rabbi Akiva **concedes to** the opinion of Rabbi Tarfon

Perek **II**
Daf **19** Amud **a**

דְּהָךְ דִּלָּא בִּיכְּרָה שְׁבִיחַ טְפֵי, צְרִיכָא.

that this offspring born to the ewe **that had not** previously **given birth is superior.**[N] The Gemara concludes: Consequently, it was **necessary** to teach each case.

מתני׳ יוֹצֵא דּוֹפֶן וְהַבָּא אַחֲרָיו – רַבִּי טַרְפוֹן אוֹמֵר: שְׁנֵיהֶם יִרְעוּ עַד שֶׁיִּסְתָּאֲבוּ, וְיֵאָכְלוּ בְּמוּמָן לַבְּעָלִים. רַבִּי עֲקִיבָא אוֹמֵר: שְׁנֵיהֶן אֵינָן בְּכוֹר, הָרִאשׁוֹן – מִפְּנֵי שֶׁאֵינוֹ "פֶּטֶר רֶחֶם", וְהַשֵּׁנִי – מִפְּנֵי שֶׁקָּדְמוֹ אַחֵר.

MISHNA With regard to an animal **born by caesarean section and** the offspring **that follows it,**[H] since there is uncertainty whether each is a firstborn, neither is given to the priest. **Rabbi Tarfon says: Both of them must graze until they become unfit, and they may be eaten in their blemished** state **by their owner. Rabbi Akiva says: Neither of them is firstborn; the first because it is not** the one **that opens the womb** (see Exodus 13:12), as this animal did not itself open the womb, **and the second because** the **other** one **preceded it.**

גמ׳ בְּמַאי קָמִיפַּלְגִי? רַבִּי טַרְפוֹן מְסַפְּקָא לֵיהּ: בְּכוֹר לְדָבָר אֶחָד, אִי הָוֵי בְּכוֹר אִי לָא הָוֵי בְּכוֹר, וְרַבִּי עֲקִיבָא פְּשִׁיטָא לֵיהּ: בְּכוֹר לְדָבָר אֶחָד – לָא הָוֵי בְּכוֹר.

GEMARA The Gemara asks: **With regard to what do** Rabbi Akiva and Rabbi Tarfon **disagree? Rabbi Tarfon is uncertain** with regard to an animal that is **a firstborn in one aspect,** e.g., first to be born or first to open the womb, **whether it is** considered **a firstborn or whether it is not** considered **a firstborn. And** conversely, it is **obvious to Rabbi Akiva** that an animal which is **a firstborn in** only **one aspect is not** considered **a firstborn.**

תָּנוּ רַבָּנַן: מִכְּלָל הַצָּרִיךְ לִפְרָט וּמִפְרָט הַצָּרִיךְ לִכְלָל, כֵּיצַד? "קַדֵּשׁ לִי כָּל בְּכוֹר" – יָכוֹל אֲפִילּוּ נְקֵבָה בְּמַשְׁמָע? תַּלְמוּד לוֹמַר: "זָכָר".

With regard to the definition of a firstborn, **the Sages taught** in a *baraita*: This *halakha* can be derived by means of the form of exegesis known as: **From a generalization that requires a detail, and from a detail that requires a generalization. How so?** The verse states: "Sanctify to Me all the firstborn, that which opens any womb among the children of Israel, both of man and of animal, it is Mine" (Exodus 13:2). Had the verse written only the generalization: "**Sanctify to Me all the firstborn,**" one **might** have thought that **even a female** animal **is included** in the category of a firstborn. Therefore, **the verse states** the detail: "Every firstborn **male** … you shall sanctify to the Lord" (Deuteronomy 15:19).

NOTES

That this offspring born to the ewe that had not previously given birth is superior – דְּהָךְ דִּלָּא בִּיכְּרָה שְׁבִיחַ טְפֵי: Rambam's Commentary on the Mishna states the opposite, that the offspring born to the ewe that had not previously given birth is inferior. Accordingly, the mishna is teaching that even in this case Rabbi Tarfon holds that the priest receives the better of the two offspring. This is in line with the interpretation of the *Arukh* on *Pesaḥim* 68b, as well as Rashi on *Sanhedrin* 65b. The Rambam apparently had a different version of the text here (*Ḥok Natan*).

HALAKHA

An animal born by caesarean section and the offspring that follows it – יוֹצֵא דּוֹפֶן וְהַבָּא אַחֲרָיו: Neither an animal born by caesarean section nor the offspring that follows it is considered a firstborn. The first is not a firstborn because it did not open the womb (see Exodus 13:12), while the second is not a firstborn because it was preceded by another offspring. This *halakha* is in accordance with the opinion of Rabbi Akiva (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:4; *Shulḥan Arukh*, *Yoreh De'a* 315:2).

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HALAKHA

Even in a case where a female emerged from the womb before it, etc. – אֲפִילּוּ יָצְתָה נְקֵבָה לְפָנָיו וכו׳: If a female was born by caesarean section, the male offspring that follows it is not considered a firstborn. This ruling is in accordance with the *baraita* and the opinion of Rav Aḥa of Difti on 19b (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:4; *Shulḥan Arukh*, *Yoreh De'a* 315:2).

PERSONALITIES

Rav Sherevya – רַב שֵׁרֶבְיָא: Rav Sherevya was a fifth-generation Babylonian *amora*. He was a student of Abaye and Rava, and a colleague of Rav Pappa and Ravina. It is known that his son, Rav, was also a Torah scholar who came to Rav Pappa's court as a litigant (see *Shevuot* 30b).

אִי ״זָכָר״ – יָכוֹל אֲפִילּוּ יָצְתָה נְקֵבָה לְפָנָיו? תַּלְמוּד לוֹמַר: ״פֶּטֶר רֶחֶם״. אִי ״פֶּטֶר רֶחֶם״ – יָכוֹל אֲפִילּוּ יָצָא אַחַר יוֹצֵא דּוֹפֶן? תַּלְמוּד לוֹמַר: ״בְּכוֹר״.

And **had** the verse stated only: "Every firstborn **male,**" one **might** have thought that the first male offspring of an animal has firstborn status, **even** in a case where **a female emerged** from the womb **before it.**[H] Therefore, **the verse states: "That which opens** any **womb,"** to teach that only an animal that itself opens its mother's womb can be a firstborn. And **had** the verse stated only: **"That which opens** any **womb,"** one **might** have thought that **even** an animal that **emerged** from the womb **after** its older sibling was **born by caesarean section** is considered firstborn. Therefore, **the verse states:** "All the **firstborn,"** to teach that only the first offspring can be considered a firstborn.

אָמַר לֵיהּ רַב שֵׁרֶבְיָא לְאַבַּיֵי: רֵישָׁא לָא קָנְסֵיב לָהּ תַּלְמוּדָא ״בְּכוֹר״ – אַלְמָא בְּכוֹר לְדָבָר אֶחָד הָוֵי בְּכוֹר, סֵיפָא קָנְסֵיב לָהּ תַּלְמוּדָא ״בְּכוֹר״ – אַלְמָא בְּכוֹר לְדָבָר אֶחָד לָא הָוֵי בְּכוֹר!

The Gemara analyzes the *baraita*. **Rav Sherevya**[P] **said to Abaye:** In **the first clause, the *baraita* does not cite** proof from the word **"firstborn"** that a male born after a female is not considered a firstborn. **Apparently,** an animal that is **a firstborn in one aspect is** called **a firstborn,** otherwise the *baraita* would not have had to derive the exclusion of a male born after a female from the phrase "that which opens any womb"; it could have cited the word "firstborn." And in **the last clause, the *baraita* does cite** proof from the word **"firstborn"** that an animal whose older sibling was born by caesarean section is not considered a firstborn, despite the fact that it is a firstborn in one aspect. **Apparently, a firstborn in one aspect is not** called **a firstborn.** If so, the *baraita* is self-contradictory.

אָמַר לֵיהּ: לְעוֹלָם בְּכוֹר לְדָבָר אֶחָד לָא הָוֵי בְּכוֹר, וְרֵישָׁא הָכִי קָאָמַר: אִי ״זָכָר״, יָכוֹל אֲפִילּוּ יוֹצֵא דּוֹפֶן? תַּלְמוּד לוֹמַר: ״פֶּטֶר רֶחֶם״.

Abaye **said to** Rav Sherevya: **Actually, a firstborn in one aspect is not** called **a firstborn, and this** is what **the first clause is saying: Had** the verse stated only: "Every firstborn **male,"** one **might** have thought that **even** an animal **born by caesarean section** is itself considered a firstborn. Therefore, **the verse states: "That which opens** any **womb,"** to teach that an animal must itself open the womb to be considered a firstborn. The word "firstborn" cannot be cited as proof that an animal born by caesarean section is not a firstborn, as such an animal was in fact born first. Therefore, the *tanna* cites the phrase "that which opens any womb." Once this phrase is cited, then a male born after a female is excluded as well, despite the fact that this *halakha* could have been derived from the word "firstborn."

רָבִינָא אָמַר: לְעוֹלָם בְּכוֹר לְדָבָר אֶחָד הָוֵי בְּכוֹר, וְסֵיפָא הָכִי קָאָמַר: אִי סָלְקָא דַּעְתָּךְ יָצָא אַחַר יוֹצֵא דּוֹפֶן קָדוֹשׁ, ״בְּכוֹר״ דִּכְתַב רַחֲמָנָא לָמָּה לִי?

Ravina said that there is a different explanation: **Actually, a firstborn in one aspect is** called **a firstborn,** and the *halakha* is not derived from the meaning of the word "firstborn" itself, but from the fact that it is superfluous. **And this** is what **the last clause is saying: If it enters your mind** that an animal which **emerged** from the womb **after** its older sibling was **born by caesarean section is sanctified, why do I** need the word **"firstborn" that the Merciful One wrote?**

Perek **II**
Daf **19** Amud **b**

אִי לְמַעוּטֵי הֵיכָא דְּיָצְתָה נְקֵבָה לְפָנָיו – מִ״פֶּטֶר רֶחֶם״ נָפְקָא! אֶלָּא שְׁמַע מִינָּהּ: ״בְּכוֹר״ – לְמַעוּטֵי הֵיכָא דְּיוֹצֵא אַחַר יוֹצֵא דּוֹפֶן.

If it serves **to exclude** a case **where a female emerged** from the womb **before it,** that **is derived from** the phrase **"that which opens** any **womb." Rather, conclude from it** that **"firstborn"** serves **to exclude** a case **where** an animal **emerged** from the womb **after** its older sibling was **born by caesarean section.** According to Ravina, the word "firstborn" is referring to an animal that is a firstborn even in only one aspect, but as it is extraneous it serves to exclude an animal whose older sibling was born by caesarean section.

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אֲמַר לֵיהּ רַב אַחָא מִדִּפְתִּי לְרָבִינָא: אִי סָלְקָא דַּעְתָּךְ בְּכוֹר לְדָבָר אֶחָד הָוֵי בְּכוֹר, תֵּינַח הֵיכָא דְּיָצָא זָכָר יוֹצֵא דּוֹפֶן וְזָכָר דֶּרֶךְ רֶחֶם – דְּלָא קָדוֹשׁ, דְּאִימְעוּט לֵידָה מִ"בְּכוֹר", דִּבְכוֹר לִרְחָמִים – אִיכָּא, בְּכוֹר לִזְכָרִים – לֵיכָּא.

Rav Aḥa of Difti said to Ravina: If it enters your mind that **a firstborn in one aspect is** called **a firstborn** and the derivation is based on the fact that the term "firstborn" is superfluous, that **works out well** in a case **where a male emerged by caesarean section and** then another **male** emerged **through the womb.** It stands to reason **that it is not sanctified, as** this **birth is excluded by** the word **"firstborn," as it is** the **firstborn of the womb,** but **it is not** the **firstborn of the males.**

אֶלָּא הֵיכָא דְּיָצְתָה נְקֵבָה דֶּרֶךְ דּוֹפֶן וְזָכָר דֶּרֶךְ רֶחֶם – לִיקְדַּשׁ, דְּהָא אִיכָּא בְּכוֹר לִזְכָרִים וּבְכוֹר לְרֶחֶם! אֶלָּא מְחַוַּורְתָּא כְּדַאֲבַיֵי.

But in a case **where a female emerged by caesarean section and** afterward **a male** was born **through the womb, let it be sanctified, as it is** the **firstborn of the males and** the **firstborn of the womb.** One cannot derive the exclusions of both of these cases from the word "firstborn," and yet the *baraita* indicates that even if a female was born first by caesarean section, the male born afterward is not considered the firstborn. The Gemara concludes: **Rather, it is clear** that the *baraita* must be interpreted **in accordance with** the explanation of **Abaye,** that a firstborn in one aspect is not called a firstborn.

הדרן עלך הלוקח עובר פרתו

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Summary of **Perek II**

Any animal over which a gentile holds some degree of ownership is exempt from having its offspring counted a firstborn. This chapter concluded that this is the *halakha* even in a case where the Jew bears sole responsibility for the animal, if the gentile has the right to collect his debt by seizing it.

The chapter likewise examined the *halakhot* relating to business transactions between Jews and gentiles. What effects a transference of ownership from a gentile to a Jew? Is the payment of money enough, or must a formal act of acquisition be performed in order for the Jew to be considered the owner? Conversely, what is the *halakha* if a gentile wishes to purchase an animal from a Jew? These issues remained subject to dispute in the Gemara as well as among halakhic authorities.

Priests and Levites are included in the mitzva of the firstborn. There are animals belonging to Israelites to which the obligation does not apply, and these are sacrificial animals that developed a blemish and were redeemed. They are exempt because they are never entirely divested of the sanctity that was instilled in them at the time of their consecration. Conversely, animals whose blemish preceded their consecration remain subject to the obligation of a firstborn when they are redeemed, because due to their blemish they were never invested with the sanctity of an offering.

An animal has the sanctity of a firstborn only if it resembles its mother. An offspring that resembles an animal of a different species is not counted a firstborn. Nevertheless, it is not considered the same species as the animal to which it bears resemblance either. Therefore, if a goat gives birth to a ewe of sorts, the offspring's wool does not have the halakhic status of sheep's wool.

In a rare situation where an animal gives birth to two offspring at what appears to be exactly the same moment, the Sages differed with regard to whether or not it is possible for two events to coincide precisely. The conclusion with regard to matters that are in the hands of Heaven was that they cannot coincide precisely, whereas the ruling in the case of matters that are in human hands remained subject to dispute.

In a case where it is uncertain whether a particular male offspring is the firstborn, the *halakha* is that the burden of proof rests upon the claimant. Accordingly, the animal remains in the possession of the owner. If it is unknown which of two male offspring is a firstborn, the priest takes the leaner of the two. Nevertheless, the offspring that remains in the owner's possession is considered an animal whose firstborn status is uncertain, and it is therefore prohibited to shear it or utilize it for labor, and it may not be slaughtered until it develops a blemish. Additionally, the priest is not entitled to the priestly gifts from that particular animal, at least according to one opinion.

The chapter concludes with a discussion on the *halakha* of a firstborn born by caesarean section and the offspring that follows it. The conclusion is that neither possesses

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firstborn status, because in order to be considered a firstborn three conditions must be met: The offspring must be the first to leave the womb, the first to open the womb, and male.

In addition to those main topics, the chapter also analyzed certain *halakhot* of disqualified consecrated animals. Even after their redemption, these still retain some degree of sanctity and can be used to render other animals substitutes. Consequently, they are not subject to the mitzva of the firstborn and the priestly gifts, and it is prohibited to shear them or utilize them for labor. Furthermore, it is prohibited to benefit from such an animal's milk, although the animal itself may be eaten. By contrast, animals whose blemish preceded their consecration are not invested with the sanctity of an offering; rather, they have only sanctity that inheres in their value. Therefore, although it is prohibited to derive benefit from them until they are redeemed, once they have been redeemed they are considered like non-sacred animals. The sources of these *halakhot* and their details comprised an appreciable share of the chapter.

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Introduction to **Perek III**

All the firstborn males that are born of your herd and of your flock you shall sanctify to the Lord your God; you shall do no work with the firstborn of your ox, nor shear the firstborn of your flock.

(Deuteronomy 15:19)

The chapter begins with the case of a Jew who purchased a female animal from a gentile and it is uncertain whether or not it had already given birth. This matter is decided based on the age of the animal, and the chapter discusses until what age it may be assumed that an animal has not yet given birth. Additionally, even if it has not given birth to a live offspring, it might have miscarried a fetus that had matured enough to be considered a firstborn. The Gemara discusses the extent to which such a possibility is taken into consideration, as well as the point at which a fetus is developed enough to exempt its mother from having any future offspring counted a firstborn. Tangentially, the Gemara also examines questions pertaining to the ritual impurity of nonviable newborns.

In addition, the chapter discusses the case of one who purchases an animal that is providing milk to a nursing offspring: Is it assumed that only animals which have given birth are able to nurse? Furthermore, is the nursing animal definitely the nursing mother's own offspring?

The second part of the chapter analyzes in depth the Torah injunction against shearing a firstborn animal, which applies even to blemished firstborns, despite the fact that they are disqualified for sacrifice on the altar. The chapter explores the extent to which this prohibition applies: Is any shearing whatsoever prohibited, or only shearing for the purpose of harvesting the animal's wool? Are there any cases in which shearing is permitted? Is plucking wool included in this prohibition?

The Gemara also examines the status of wool that was removed from the animal. While it is prohibited to derive benefit from sacrificial animals, it must be determined if the wool itself is permitted after the animal's death. Is there a difference in this regard between wool that was shorn and wool that became detached on its own? What is the *halakha* of wool that was removed after the animal's slaughter?

These are the primary subjects of this chapter, although it also addresses broader topics that have ramifications for the *halakhot* of a firstborn. These include the principle of following the majority to determine the *halakha*, as well as the methods and extent of nullification of impurity.

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מתני׳ הַלּוֹקֵחַ בְּהֵמָה מִן הַגּוֹי, וְאֵינוֹ יוֹדֵעַ אִם בִּיכָרָה אִם לֹא בִּיכָרָה, רַבִּי יִשְׁמָעֵאל אוֹמֵר: עֵז בַּת שְׁנָתָהּ – וַדַּאי לַכֹּהֵן, מִכָּאן וָאֵילָךְ – סָפֵק. רָחֵל בַּת שְׁתַּיִם – וַדַּאי לַכֹּהֵן, מִכָּאן וָאֵילָךְ – סָפֵק. פָּרָה וַחֲמוֹר בְּנוֹת שָׁלֹשׁ – וַדַּאי לַכֹּהֵן, מִכָּאן וָאֵילָךְ – סָפֵק.

MISHNA

In the case of **one who purchases** a female **animal from a gentile**[H] **and does not know whether it had** previously **given birth** or **whether it had not** previously **given birth,** and after the purchase the animal gave birth to a male, **Rabbi Yishmael says:** If the mother was **a goat within its first year**[B] the male offspring **certainly** is given **to the priest,** as it definitely never gave birth previously. **From that** point **forward,** i.e., if the mother is older than that, its offspring's status as a firstborn is **uncertain.**[N] If it was **a ewe within its second year** the male offspring **certainly** is given **to the priest; from that** point **forward** an offspring's status is **uncertain.** If it was **a cow or a donkey within its third year** the male offspring **certainly** is given **to the priest; from that** point **forward** the offspring's status is **uncertain.**

אָמַר לוֹ רַבִּי עֲקִיבָא: אִילּוּ בָּוָולָד בִּלְבַד הַבְּהֵמָה נִפְטֶרֶת – כִּדְבָרֶיךָ, אֶלָּא אָמְרוּ: סִימַן הַוָּולָד בִּבְהֵמָה דַּקָּה – טִינּוּף, וּבִגְסָּה – שִׁילְיָא, וּבְאִשָּׁה – שָׁפִיר וְשִׁילְיָא.

Rabbi Akiva said to him: Were an animal exempted only by giving birth to **an offspring** and in no other manner the *halakha* would be **in accordance with your statement. But** the Sages **said: An indication of the offspring in a small animal** is **a murky discharge**[H] from the womb, which indicates the animal had been pregnant, and therefore exempts subsequent births from the mitzva of the firstborn. The indication **in a large** animal is the emergence of **an afterbirth, and** the indication **in a woman** is **a fetal sac or an afterbirth.**[NH] Since these can be produced even within a year, it cannot be assumed that an animal in its first year is definitely subject to the mitzva of the firstborn.

זֶה הַכְּלָל: כָּל שֶׁיָּדוּעַ שֶׁבִּיכָרָה – אֵין כָּאן לַכֹּהֵן כְּלוּם, וְכָל שֶׁלֹּא בִּיכָרָה – הֲרֵי זֶה לַכֹּהֵן, וְאִם סָפֵק – יֵאָכֵל בְּמוּמוֹ לַבְּעָלִים.

Rabbi Akiva continues: Rather, **this is the principle:** In **any** case **where it is known that** the animal **had** previously **given birth, the priest has nothing here. And** in **any** case **where it is known that** the animal **had not** previously **given birth, that** is given **to the priest. And if it is uncertain, it may be eaten in its blemished** state **by the owner.**[H]

גמ׳ מִיכָּן וָאֵילָךְ אַמַּאי סָפֵק? הַלֵּךְ אַחַר רוֹב בְּהֵמוֹת, וְרוֹב בְּהֵמוֹת מִתְעַבְּרוֹת וְיוֹלְדוֹת בְּתוֹךְ שְׁנָתָן נִינְהוּ, וְהָא וַדַּאי מֵילַד אוֹלִיד! לֵימָא רַבִּי יִשְׁמָעֵאל כְּרַבִּי מֵאִיר סְבִירָא לֵיהּ, דְּחָיֵישׁ לְמִיעוּטָא?

GEMARA

The mishna teaches that according to Rabbi Yishmael, the firstborn status of the offspring of a goat acquired from a gentile when it was more than one year old is uncertain. The Gemara asks: **From that** point **forward,** i.e., if it was bought after its first year, **why is it** in a state of **uncertainty?** One should **follow the majority of animals, and** as **the majority of animals are impregnated and give birth within their** first **year,** it can be assumed **this** animal **certainly gave birth.** The Gemara suggests: **Shall we say Rabbi Yishmael holds in accordance with** the opinion of **Rabbi Meir, who** says **one must be concerned for the minority,** i.e., he must take the minority of cases into account?

BACKGROUND

Goat within its first year – עֵז בַּת שְׁנָתָהּ: Nowadays it is established that a goat can become pregnant at the age of three months, although it is advised to wait until nine months so that it will have reached two-thirds of the weight of a full-grown goat. Its pregnancy usually lasts five months, and it is therefore possible for a goat to give birth within its first year of life. Goats usually become pregnant at the age of seven to nine months and give birth at the age of twelve to fifteen months, i.e., after their first year. Cows generally become pregnant at the age of fourteen to sixteen months, and give birth after nine months of pregnancy at the age of twenty-three to twenty-five months, i.e., in their third year. A donkey typically becomes pregnant at the age of three or four years, and gives birth a year later.



Pregnant goat

NOTES

From that point forward its status as a firstborn is uncertain – מִכָּאן וָאֵילָךְ סָפֵק: An animal whose status as a firstborn is uncertain is not given to the priest, because in order to claim it the priest must prove that it is actually a firstborn. Nevertheless, the animal is treated as a firstborn, and therefore it is prohibited to shear it, put it to labor, or derive benefit from it, and it may not be slaughtered while it is unblemished. Instead, it is left to graze until it becomes blemished, at which point it may be eaten by the owner. In the case of a donkey, one must set aside a lamb in its stead in order to divest the donkey of the sanctity it may possess as a firstborn, but the lamb is not given to the priest (see 9a–b).

A fetal sac or an afterbirth – שָׁפִיר וְשִׁילְיָא: The fetal sac envelops the embryo, while the afterbirth is the placenta and fetal membranes expelled after the birth. Both are indications that a fetus had formed at one stage (see *Nidda* 26a).

HALAKHA

One who purchases a female animal from a gentile – הַלּוֹקֵחַ בְּהֵמָה מִן הַגּוֹי: If one does not know whether or not an animal that was purchased from a gentile had previously given birth, and it gave birth in his possession, the firstborn status of the offspring is uncertain and it may be eaten once it develops a blemish. It does not matter whether one purchased it within its first year, in accordance with the opinion of Rabbi Akiva. Even if the gentile mentions offhandedly that the animal had previously given birth, he is not deemed credible (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:7, 10; *Shulḥan Arukh*, *Yoreh De'a* 316:1).

An indication of the offspring in a small animal is a murky discharge, etc. – סִימַן הַוָּולָד בִּבְהֵמָה דַּקָּה טִינּוּף וכו׳: In the case of a small animal that miscarried a fetus which had not yet taken a recognizable form, the fetus appears as a murky discharge and the mother animal is exempt from having its future offspring counted a firstborn. Similarly, the emergence of an afterbirth in a large animal exempts it from the obligation of the firstborn (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:10; *Shulḥan Arukh*, *Yoreh De'a* 316:7).

And in a woman, a fetal sac or an afterbirth – וּבְאִשָּׁה שָׁפִיר וְשִׁילְיָא: A woman who miscarries a placenta must observe the days of ritual impurity for both a female and a male child. The reason is that a placenta is an indication of offspring in a woman (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 10:14; *Shulḥan Arukh*, *Yoreh De'a* 194:3).

And if it is uncertain it may be eaten in its blemished state by the owner – וְאִם סָפֵק יֵאָכֵל בְּמוּמוֹ לַבְּעָלִים: Any animal whose firstborn status is uncertain may not be shorn or used for labor. Rather, it is left to graze until it develops a blemish, at which point it may be eaten by the owner. It may not be sacrificed on the altar due to the possibility that one might be slaughtering a non-sacred animal in the Temple courtyard (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:3; *Shulḥan Arukh*, *Yoreh De'a* 316:1).

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אֲפִילּוּ תֵּימָא רַבָּנַן, כִּי אָזְלִי בָּתַר רוּבָּא – בְּרוּבָּא דְּאִיתֵיהּ קַמָּן, כְּגוֹן תֵּשַׁע חֲנוּיוֹת, וְסַנְהֶדְרִין, אֲבָל רוּבָּא דְּלֵיתֵיהּ קַמָּן – לָא אָזְלִי רַבָּנַן בָּתַר רוּבָּא.

The Gemara responds: **You** may **even say** Rabbi Yishmael holds in accordance with the opinion of **the Rabbis. When** the Rabbis **follow the majority,** this is in a case **of an evident majority,** which is extant and can be examined. **For example,** in a situation where a piece of meat is found in front of **nine stores**[H] selling kosher meat and one store selling non-kosher meat, and it is not known from which store it came, it may be assumed that it came from one of the stores that sells kosher meat. **And** similarly, **the Sanhedrin** reaches its decisions by a majority vote of its judges. **But** with regard to **a non-evident majority,**[N] which is based solely upon statistical information such as the assertion that most animals become pregnant and give birth within their first year, even **the Rabbis do not follow the majority.**

וְהָא קָטָן וּקְטַנָּה, דִּרוּבָּא דְּלֵיתֵיהּ קַמָּן, וְקָאָזְלִי רַבָּנַן בָּתַר רוּבָּא. דִּתְנַן: קָטָן וּקְטַנָּה – לֹא חוֹלְצִין וְלֹא מְיַיבְּמִין, דִּבְרֵי רַבִּי מֵאִיר. אָמְרוּ לוֹ: פָּה אָמַרְתָּ שֶׁאֵין חוֹלְצִין – "אִישׁ" כָּתוּב בַּפָּרָשָׁה, וּמַקִּישִׁינַן אִשָּׁה לְאִישׁ;

The Gemara raises a difficulty: **But** the case of levirate marriage of **a male minor or a female minor**[H] **is** dependent **upon a non-evident majority, and** yet **the Rabbis follow the majority** in their ruling. **As we learned** in a *baraita*: **A male minor or a female minor may not perform the ritual through which a *yavam* frees a *yevama* of her levirate bonds** [*ḥalitza*]**, nor enter into levirate marriage;**[B] this is **the statement of Rabbi Meir.** The Rabbis **said to** Rabbi Meir: **You have aptly stated that they may not perform *ḥalitza*,** since "**man,**" indicating an adult male, **is written in the section** of the Torah addressing *ḥalitza* (see Deuteronomy 25:7). Although an adult female is not mentioned explicitly, **we juxtapose** the *halakha* of **the woman to** that of **the man** and require that the female involved in *ḥalitza* must be an adult as well.

מַה טַּעַם אֵין מְיַיבְּמִין? אָמַר לָהֶם: קָטָן – שֶׁמָּא יִמָּצֵא סָרִיס, קְטַנָּה – שֶׁמָּא תִּמָּצֵא אַיְילוֹנִית, וְנִמְצְאוּ פּוֹגְעִין בְּעֶרְוָה.

But **what is the reason they may not enter into levirate marriage,** with regard to which the Torah's wording does not specifically indicate adults? Rabbi Meir **said to them:** In the case of **a male minor** I am concerned **lest he is found** to be **a eunuch,**[B] i.e., one who is incapable of fathering children, when he grows up. Similarly, **a female minor** may not enter into levirate marriage **lest** when she grows up **she is found** to be **a sexually underdeveloped woman** [***ailonit***]**,**[B] who is incapable of bearing children. In either case the mitzva of levirate marriage does not apply, **and they** would **be found** to have **encountered a forbidden relative** and entered into a forbidden relationship where no mitzva applies, as the entire purpose of levirate marriage is to have children for the brother who died childless.

וְרַבָּנַן – זִיל בָּתַר רוּבָּא קְטַנִּים, וְרוֹב קְטַנִּים לָאו סָרִיסִים נִינְהוּ; זִיל בָּתַר קְטַנּוֹת, וְרוֹב קְטַנּוֹת לָאו אַיְילוֹנִית נִינְהוּ!

And the Rabbis hold: **Follow the majority of male minors, and most male minors are not eunuchs;** and likewise, **follow the majority of female minors, and most female minors are not sexually underdeveloped women.** This indicates that the Rabbis disagree with Rabbi Meir even with regard to a non-evident majority.

אֶלָּא אָמַר רָבָא:

Rather, Rava says:

HALAKHA

Nine stores – תֵּשַׁע חֲנוּיוֹת: By Torah law, if a piece of meat is found in a marketplace in which there are nine stores selling kosher meat and one store selling non-kosher meat, the piece is assumed to be kosher due to the principle: Follow the majority. The Sages prohibited any meat that was obscured from sight, even in cases where all ten stores sell only kosher meat. See *Ḥullin* 95a (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 8:11; *Shulḥan Arukh*, *Yoreh De'a* 110:3).

A male minor or a female minor – קָטָן וּקְטַנָּה: A male minor cannot perform *ḥalitza* until he has reached the age of thirteen years and one day, and has grown two pubic hairs. Similarly, a female minor cannot perform *ḥalitza* until she has reached the age of twelve years and one day, and has grown two pubic hairs. The *halakha* is in accordance with the opinion of the Rabbis (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 1:16–18; *Shulḥan Arukh*, *Even HaEzer* 167:3–4).

NOTES

A non-evident majority, etc. – רוּבָּא דְּלֵיתֵיהּ קַמָּן וכו': According to the conclusion of the Gemara in *Ḥullin* 12a, a majority is always followed, even in the case of a non-evident majority. Nevertheless, the commentaries note that there are differences between the two types of majority. In certain cases an evident majority has greater ramifications than a non-evident majority, as the Torah itself ascribes significance to it (see Exodus 23:2). Although an evident majority can be used to decide the *halakha* in cases of uncertainty, it does not purport to clarify the actual facts of the situation in question. Conversely, a non-evident majority can sometimes be used to assume the truth of certain assumptions, and with regard to a legal fiction of this kind, a non-evident majority actually holds more weight than an evident majority (see *Shev Shemateta* 2; *Sha'arei Yosher* 3).

BACKGROUND

Levirate marriage and *ḥalitza* – יִבּוּם וַחֲלִיצָה: The *halakhot* of levirate marriage and *ḥalitza* appear in the Torah (see Deuteronomy 28:5–10) and are articulated at length in tractate *Yevamot*, which is devoted primarily to this topic. The basic concept is that if a man dies with no living descendants, his widow, the *yevama*, is tied by a levirate bond to his brother, the *yavam*, who must either take her as a wife through levirate marriage or sever the bond by means of the ceremony of *ḥalitza*, in which the *yevama* removes a shoe from the foot of the *yavam*. As long as the levirate bond is intact it is prohibited for her to marry a different man.



Shoe used for *ḥalitza*, viewed from different angles

Eunuch – סָרִיס: The Sages use the term eunuch in reference to a man whose genitals are mostly intact, but who has some kind of physical blemish that prevents him from ever fathering children. Accordingly, it is possible that any minor boy might be a eunuch even if there are no apparent indications of this at the child's current age.

Sexually underdeveloped woman [*ailonit*] – אַיְילוֹנִית: The Gemara in *Yevamot* 12b defines a sexually underdeveloped woman as one who has a genetic condition that prevents her from bearing children. This is different from a regular barren woman, whose physical and sexual development are normal. An *ailonit* is recognizable by her abnormal physical development, which can occur for various reasons. Some women have excess male hormones, while others suffer from Turner syndrome. There are many discussions with regard to the halakhic status of an *ailonit*, primarily because her secondary sex signs are missing or appear at a later stage than normal. This leads to several questions about when a sexually underdeveloped woman is considered to have reached adulthood.

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מְחַוַּורְתָּא, רַבִּי יִשְׁמָעֵאל כְּרַבִּי מֵאִיר סְבִירָא לֵיהּ דְּחָיֵישׁ לְמִיעוּטָא.

It is clear, as was suggested initially, that **Rabbi Yishmael** holds **in accordance with** the opinion of **Rabbi Meir, who** says that **one must be concerned for the minority.**

רָבִינָא אָמַר: אֲפִילּוּ תֵּימָא רַבָּנַן, כִּי אָזְלִי רַבָּנַן בָּתַר רוּבָּא – בְּרוּבָּא דְּלָא תָּלֵי בְּמַעֲשֶׂה, אֲבָל רוּבָּא דְּתָלֵי בְּמַעֲשֶׂה – לָא.

Ravina says: You may **even say** that Rabbi Yishmael holds in accordance with the opinion of **the Rabbis. When the Rabbis follow the majority,** it is **with regard to a majority that is not dependent upon an action** but is simply the nature of reality. **But** in the case of **a majority that is dependent upon an action,** such as the pregnancy of a young goat, which depends upon whether or not it had copulated with a male, the Rabbis do **not** follow the majority.

תָּנוּ רַבָּנַן: עֵז בַּת שְׁנָתָהּ – וַדַּאי לַכֹּהֵן, מִיכָּן וּלְהַלָּן – סָפֵק. רָחֵל בַּת שְׁתַּיִם – וַדַּאי לַכֹּהֵן, מִיכָּן וּלְהַלָּן – סָפֵק. פָּרָה בַּת שָׁלֹשׁ – וַדַּאי לַכֹּהֵן, מִיכָּן וּלְהַלָּן – סָפֵק. חֲמוֹרָה – כְּפָרָה. רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: חֲמוֹרָה בַּת אַרְבַּע שָׁנִים. עַד כָּאן דִּבְרֵי רַבִּי יִשְׁמָעֵאל.

§ **The Sages taught** in a *baraita*: If one purchased **a goat within its first year** from a gentile and does not know whether or not it had previously given birth, the subsequent male offspring **certainly** is given **to the priest; from that** point **forward** an offspring's status as a firstborn is **uncertain.** If it was **a ewe within its second year** the offspring **certainly** is given **to the priest; from that** point **forward** an offspring's status as a firstborn is **uncertain.** If it was **a cow within its third year** the offspring **certainly** is given **to the priest; from that** point **forward** an offspring's status as a firstborn is **uncertain.** If it was **a donkey** it is subject to the same *halakha* **as a cow. Rabbi Yosei, son of Rabbi Yehuda, says:** The offspring of **a donkey within its fourth year**[N] also has the status of a firstborn. **Until here is the statement of Rabbi Yishmael.**

כְּשֶׁנֶּאֶמְרוּ דְּבָרִים לִפְנֵי רַבִּי יְהוֹשֻׁעַ, אָמַר לָהֶן, צְאוּ אִמְרוּ לוֹ לְרַבִּי יִשְׁמָעֵאל: טָעִיתָ! אִילּוּ בַּוָּולָד בִּלְבַד הַבְּהֵמָה נִפְטֶרֶת – הָיָה כִּדְבָרֶיךָ. אֶלָּא: סִימָן הַוָּולָד בִּבְהֵמָה דַּקָּה – טִינּוּף, וּבִגַסָּה – שִׁלְיָא, וּבְאִשָּׁה – שָׁפִיר וְשִׁלְיָא.

The *baraita* continues: **When these matters were stated** by the students **before Rabbi Yehoshua, he said to them: Go out** and **say to Rabbi Yishmael: You erred. Were an animal exempted only by** giving birth to **an offspring** and in no other manner the *halakha* would be **in accordance with your statement. But** the Rabbis said: **An indication of the offspring in a small animal** is **a murky discharge** from the womb, which exempts subsequent births from the mitzva of the firstborn. **And** the indication **in a large** animal is the emergence of **an afterbirth, and** the indication **in a woman** is **a fetal sac or an afterbirth.**

וַאֲנִי אֵין אֲנִי אוֹמֵר כֵּן, אֶלָּא: עֵז שֶׁטִּינְּפָה בַּת שִׁשָּׁה – יוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ, רָחֵל שֶׁטִּינְּפָה בַּת שְׁנָתָהּ – יוֹלֶדֶת בְּתוֹךְ שְׁתַּיִם. אָמַר רַבִּי עֲקִיבָא: אֲנִי לֹא בָּאתִי לִידֵי מִדָּה זוֹ, אֶלָּא: כָּל שֶׁדּוֹעֵךְ שֶׁבִּיכְרָה – אֵין כָּאן לַכֹּהֵן כְּלוּם, וְכָל שֶׁלֹּא בִּיכְרָה – הֲרֵי זוֹ לַכֹּהֵן, סָפֵק – יֹאכַל בְּמוּמוֹ לַבְּעָלִים.

Rabbi Yehoshua added: That is the opinion of the Rabbis, **but I myself do not say so. Rather,** I hold that **a goat that expelled a murky discharge** from the womb **at** the age of **six** months can **give birth within its first year,** and **a ewe that expelled a murky discharge in its first year** can **give birth within its second year.** The Gemara will later discuss the practical difference between his opinion and the ruling that he ascribes to the Rabbis. **Rabbi Akiva says: I have not arrived at this method** of determining firstborn status. **Rather,** in **any** case **where it is known that** the animal **had** previously **given birth, the priest has nothing here. And** in **any** case **where it is known that** the animal **had not** previously **given birth, that** is given **to the priest. And if it is uncertain, it may be eaten in its blemished** state **by the owner.**

בְּמַאי קָמִיפַּלְגִי רַבִּי יִשְׁמָעֵאל וְרַבִּי יְהוֹשֻׁעַ? לֵימָא בְּטִינּוּף פּוֹטֵר קָמִיפַּלְגִי, רַבִּי יִשְׁמָעֵאל סָבַר: טִינּוּף אֵינוֹ פּוֹטֵר, וְרַבִּי יְהוֹשֻׁעַ סָבַר: טִינּוּף פּוֹטֵר?

The Gemara analyzes the *baraita*. **With regard to what** matter **do Rabbi Yishmael and Rabbi Yehoshua disagree? Shall we say they disagree with regard to** whether or not **a murky discharge** from the womb **exempts** an animal from the mitzva of the firstborn; as **Rabbi Yishmael holds** that **a murky discharge does not exempt** an animal because it is not a sign of a birth, **and Rabbi Yehoshua holds** that **a murky discharge exempts**[H] an animal?

NOTES

A donkey within its fourth year – חֲמוֹרָה בַּת אַרְבַּע שָׁנִים: This is certainly not part of Rabbi Yishmael's statement, as Rabbi Yosei lived two generations after Rabbi Yishmael. Rather, Rabbi Yosei, son of Rabbi Yehuda, apparently cited Rabbi Yishmael as saying that the offspring of a donkey within its fourth year is given to the priest.

HALAKHA

A murky discharge exempts – טִינּוּף פּוֹטֵר: If an animal experienced a murky discharge, it is not subject to having its future live offspring counted a firstborn (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:10; *Shulḥan Arukh*, *Yoreh De'a* 315:7).

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אִי דְּחָזְיֵנַן דְּטִינּוּף – דְּכוּלֵּי עָלְמָא לָא פְּלִיגִי דְּטִינּוּף פּוֹטֵר. וְהָכָא בְּחוֹשְׁשִׁין לְטִינּוּף קָא מִיפַּלְגִי, רַבִּי יִשְׁמָעֵאל סָבַר: אֵין חוֹשְׁשִׁין לְטִינּוּף, וְרַבִּי יְהוֹשֻׁעַ סָבַר: חוֹשְׁשִׁין לְטִינּוּף.

The Gemara rejects this suggestion: **If we** actually **see a murky discharge, everyone agrees that** the **murky discharge exempts** an animal. **And here, it is** with regard to whether **one is concerned** about the possibility that an animal might have expelled **a murky discharge that they disagree. Rabbi Yishmael holds** that **we are not concerned about a murky discharge,** and it can therefore be assumed that the first offspring born after its purchase from the gentile is firstborn; **and Rabbi Yehoshua holds** that **one is concerned about a murky discharge,**[NH] and due to the uncertainty the next offspring remains with its owner.

וְלָא חָיֵישׁ? וְהָאָמַר רָבָא: מְחַוְורְתָּא רַבִּי יִשְׁמָעֵאל כְּרַבִּי מֵאִיר סְבִירָא לֵיהּ, דְּחָיֵישׁ לְמִיעוּט! כִּי חָיֵישׁ – לְחוּמְרָא, לְקוּלָּא – לָא חָיֵישׁ.

The Gemara objects: **And** is it correct that Rabbi Yishmael is **not concerned** about the possibility that the mother might have expelled a murky discharge before giving birth to a live offspring? **But doesn't Rava say: It is clear** that **Rabbi Yishmael holds in accordance with** the opinion of **Rabbi Meir, who** says **one must be concerned for the minority?** If so, Rabbi Yishmael should be concerned for a murky discharge as well. The Gemara explains: **Where** Rabbi Yishmael **is concerned** is when the concern leads **to a stringency.** But if the concern would lead **to a leniency,** as in this case, where it would mean that the animal born after a year is only an uncertain firstborn, he is **not concerned.**

וְאִיבָּעֵית אֵימָא: בֵּין לְקוּלָּא בֵּין לְחוּמְרָא חָיֵישׁ, וְהָכָא בִּמְטַנֶּפֶת וְחוֹוֶרֶת וְיוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ קָמִיפַּלְגִי, דְּרַבִּי יִשְׁמָעֵאל סָבַר: מְטַנֶּפֶת אֵינָהּ חוֹוֶרֶת וְיוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ, וְהָא מְדְּאוֹלִיד – דַּאי לָא טָנֵיף, וְרַבִּי יְהוֹשֻׁעַ סָבַר: מְטַנֶּפֶת – חוֹוֶרֶת וְיוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ.

And if you wish, say instead: **Whether** it leads **to a leniency** or **whether** it leads **to a stringency** Rabbi Yishmael **is concerned, and here they disagree with regard to** whether or not an animal can **expel a murky discharge and** then **return** to its fertile state **and give birth within its first year. As Rabbi Yishmael holds:** An animal that **expels a murky discharge does not return** to its fertile state **and give birth within its first year, and** accordingly, **from** the fact **that this** animal **gave birth** it can be concluded that it **certainly did not expel a murky discharge** beforehand. **And Rabbi Yehoshua**[P] **holds:** An animal that **expels a murky discharge returns** to its fertile state **and** can **give birth within its first year.**

״וַאֲנִי אֵינִי אוֹמֵר כֵּן, אֶלָּא עֵז שֶׁטִּינְּפָה בַּת שִׁשָּׁה – יוֹלֶדֶת תּוֹךְ שְׁנָתָהּ, רָחֵל שֶׁטִּינְּפָה בַּת שְׁנָתָהּ – יוֹלֶדֶת בְּתוֹךְ שִׁתִּים״. מַאי אִיכָּא בֵּין גְּמָרֵיהּ לְסְבָרֵיהּ?

§ The *baraita* teaches that Rabbi Yehoshua said: That is the opinion of the Rabbis, **but I myself do not say so. Rather,** I hold that **a goat that expelled a murky discharge** from the womb **at** the age of **six** months still **gives birth within its first year,** while **a ewe that expelled a murky discharge in its first year** still **gives birth within its second year.** The Gemara asks: Since according to both opinions an animal that expelled a murky discharge can still give birth within a year, **what** difference **is there between** Rabbi Yehoshua's **tradition** of the opinion of the Rabbis **and his** own **reasoning?**

שֶׁטִּינְּפָה בְּסוֹף שִׁשָּׁה. וְאִיכָּא בֵּינַיְיהוּ דְּזָעֲירִי, דְּאָמַר זָעֲירִי: אֵין טִינּוּף פָּחוֹת מִשְּׁלֹשִׁים יוֹם;

The Gemara answers: The difference between their opinions is in a case **where** a goat **expelled a murky discharge at the end of** its first **six** months of life,[H] when the seventh month began, and then gave birth before the end of its first year. **And there is** a difference **between** them with regard to the statement **of Ze'eiri, as Ze'eiri says:** The expulsion of **a murky discharge,** which is sufficient to exempt an animal from having its future offspring counted a firstborn, prevents it from being impregnated for **no less than thirty days.**[NH] If an animal becomes pregnant within thirty days of expelling a murky discharge, evidently that discharge was not the sign of a fetus, and therefore the offspring will have firstborn status.

NOTES

And Rabbi Yehoshua holds that one is concerned about a murky discharge – וְרַבִּי יְהוֹשֻׁעַ סָבַר חוֹשְׁשִׁין לְטִינּוּף: It can be inferred from here that Rabbi Yehoshua is concerned about a minority, which is perplexing because the Gemara on the following *amud* indicates otherwise. *Tosafot* suggest that the discussion here applies only to the specific context of monetary law, and the majority is not followed in such cases. But with regard to the prohibitions against shearing and labor the majority is followed, and therefore the offspring is considered a definite firstborn and may even be sacrificed on the altar. Ultimately, *Tosafot* are unsatisfied with this interpretation, as it is inconsistent to treat the offspring as a certain firstborn with regard to the altar, while at the same time withholding it from the priest on the basis that it is an uncertain firstborn. Instead, they explain that although murky discharges are rare, the majority of animals become pregnant as soon they are capable of doing so. Alternatively, the occurrence of a murky discharge differs from a standard minority, as it is a commonly found minority (Rabbeinu Yona; see Rosh and *Shita Mekubbetzet*).

Expulsion of a murky discharge prevents it from being impregnated for no less than thirty days – אֵין טִינּוּף פָּחוֹת מִשְּׁלֹשִׁים יוֹם: According to Ze'eiri, a female animal will not show receptivity to a male within the first month of experiencing a murky discharge, and therefore it will not become pregnant during that time. Consequently, if it does show receptivity to a male, the discharge evidently did not indicate the presence of a fetus but rather was some other type of bodily discharge (Rashi, citing the Gemara on 21b).

HALAKHA

One is concerned about a murky discharge – חוֹשְׁשִׁין לְטִינּוּף: The offspring of an animal purchased from a gentile that gave birth in the Jew's possession within its first year of life is of uncertain firstborn status, due to the possibility that the mother animal might have previously expelled a murky discharge. This ruling is in accordance with the opinion of Rabbi Yehoshua and Rabbi Akiva. The Ramban maintains it is a definite firstborn, because Rabbi Yehoshua is not concerned for a minority (see 21b). Nevertheless, a priest is not entitled to the animal, as in order to claim it he must prove that the offspring is a firstborn (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:10).

Where a goat expelled a murky discharge at the end of its first six months of life – שֶׁטִּינְּפָה בְּסוֹף שִׁשָּׁה: If an animal experienced a murky discharge at the end of its sixth month, it is assumed that it will not give birth by the end of its first year, in accordance with the opinion of the Sages cited by Rabbi Yehoshua, and the opinion of Rabbi Akiva in the mishna (Ramban's *Hilkhot Bekhorot*).

Expulsion of a murky discharge prevents it from being impregnated for no less than thirty days – אֵין טִינּוּף פָּחוֹת מִשְּׁלֹשִׁים יוֹם: It is assumed that an animal does not become pregnant within thirty days of experiencing a murky discharge, in accordance with the opinion of Ze'eiri (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:12).

PERSONALITIES

Rabbi Yishmael and Rabbi Yehoshua – רַבִּי יִשְׁמָעֵאל וְרַבִּי יְהוֹשֻׁעַ: Rabbi Yishmael ben Elisha is the Rabbi Yishmael widely quoted in the Mishna and the Talmud. As related by the Sages, he was taken into captivity by the Romans as a child and was redeemed by Rabbi Yehoshua for a significant ransom. He subsequently studied under Rabbi Yehoshua and became one of the prominent speakers in the rabbinical court in Yavne. The thirteen hermeneutical principles of the Torah, as articulated by Rabbi Yishmael, are the foundations of halakhic midrash. Many statements are attributed to him in the Mishna, and many of his opinions appear in the Gemara under the general rubric: The school of Rabbi Yishmael taught.

At the time of the discussion recorded in the Gemara here, Rabbi Yehoshua ben Ḥananya, called simply Rabbi Yehoshua here, was among the elders of the generation, and he considers the younger Rabbi Yishmael as a son and disciple.

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לְגִמָרֵיהּ – אִית לֵיהּ דִּזְעֵירִי, לְסְבָרֵיהּ – לֵית לֵיהּ דִּזְעֵירִי.

In this case, as the pregnancy of a goat lasts five months and a murky discharge was expelled at the end of the sixth month, a goat that gave birth by the end of the year, i.e., twelve months, must have become pregnant within a month of the discharge. The Rabbis, whose opinion Rabbi Yehoshua cited by **tradition, accept** the statement **of Ze'eiri,** and therefore they rule that this goat, which became pregnant within a month of the discharge, is not exempt from the mitzva of the firstborn. **According to** Rabbi Yehoshua's own **reasoning, he does not accept** the statement **of Ze'eiri,** which means that although this animal became pregnant within a month of the discharge, it was nevertheless exempt from the mitzva of the firstborn.

וְאִיבָּעֵית אֵימָא: דְּכוּלֵּי עָלְמָא אִית לְהוּ דִּזְעֵירִי, וְהָכָא בִּיוֹלֶדֶת לִמְקוּטָּעִין קָמִיפַּלְגִי.

The Gemara suggests another answer: **And if you wish, say that everyone accepts** the statement **of Ze'eiri; and here,** in the case of a goat that gave birth within its first year after having expelled a murky discharge at the end of its sixth month, **they disagree** with regard to whether or not an animal **gives birth after incomplete** months, i.e., prematurely.

Perek **III**
Daf **20** Amud **b**

לְגִמָרֵיהּ – לָא אָמְרִינַן יוֹלֶדֶת לִמְקוּטָּעִין, לְסְבָרֵיהּ – אָמְרִינַן יוֹלֶדֶת לִמְקוּטָּעִין.

According to Rabbi Yehoshua's **tradition** of the opinion of the Rabbis, **we do not say** that an animal **gives birth after incomplete** months,[B] and therefore if it gave birth within its first year it must have become pregnant within thirty days of the discharge, which means the discharge was not indicative of a fetus and does not exempt the next offspring from being counted a firstborn. **According to** Rabbi Yehoshua's own **reasoning, we say** an animal **gives birth after incomplete** months, and consequently it is possible the animal became pregnant later than thirty days after the discharge and its term of pregnancy was shorter than normal. If so, the discharge does exempt the next offspring from firstborn status.

BACKGROUND

Gives birth after incomplete months – יוֹלֶדֶת לִמְקוּטָּעִין: The duration of a goat's pregnancy is five months, and it rarely ends prematurely. On rare occasions goats will give birth two weeks early, after only four and a half months of pregnancy.

וְאִיבָּעֵית אֵימָא: לָא אָמְרִינַן יוֹלֶדֶת. וְהָכָא בְּמִקְצָת הַיּוֹם כְּכוּלּוֹ קָמִיפַּלְגִי, לְסְבָרֵיהּ – אָמְרִינַן מִקְצָת הַיּוֹם כְּכוּלּוֹ, לְגִמָרֵיהּ – לָא אָמְרִינַן מִקְצָת הַיּוֹם כְּכוּלּוֹ.

And if you wish, say that everyone accepts Ze'eiri's statement and **we do not say** that an animal **gives birth** prematurely, **and here, they disagree** with regard to whether or not the halakhic status of **part of the day is like an entire** day: According **to** Rabbi Yehoshua's **reasoning we say part of the day is like an entire** day, and therefore it is possible for the goat to have become pregnant on the thirtieth day after experiencing the discharge and to give birth precisely five months later, just before the year ends. According **to** his **tradition** of the opinion of the Rabbis, **we do not say part of the day is like an entire** day, which means that the earliest possible birth is on the first day of the second year.

״אָמַר רַבִּי עֲקִיבָא: אֲנִי לֹא בָאתִי לִידֵי מִדָּה זוֹ אֶלָּא כָּל שֶׁיָּדוּעַ״ כּוּ׳. מַאי אִיכָּא בֵּין רַבִּי עֲקִיבָא לְרַבִּי יְהוֹשֻׁעַ?

The *baraita* taught that **Rabbi Akiva says: I have not arrived at this method** of determining firstborn status. **Rather,** in **any** case **where it is known** the animal had previously given birth, the priest has nothing here. And in any case where it is known the animal had not previously given birth, its firstborn is given to the priest. And if it is uncertain, it may be eaten in its blemished state by the owner. The Gemara asks: **What** difference **is there** in practice **between** the opinions of **Rabbi Akiva and Rabbi Yehoshua?**

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אָמַר רַבִּי חֲנִינָא מִסּוּרָא: חָלָב פּוֹטֵר אִיכָּא בֵּינַיְיהוּ. רַבִּי עֲקִיבָא סָבַר: חָלָב פּוֹטֵר; הַלֵּךְ אַחַר רוֹב בְּהֵמוֹת, וְרוֹב בְּהֵמוֹת אֵין חוֹלְבוֹת אֶלָּא אִם כֵּן יוֹלְדוֹת. וְרַבִּי יְהוֹשֻׁעַ סָבַר: הָא אִיכָּא מִיעוּטָא דְּחוֹלְבוֹת אַף עַל פִּי שֶׁאֵין יוֹלְדוֹת.

Rabbi Ḥanina of Sura says: There is a difference **between them** in a case where the animal came into the Jew's possession after it had already started to produce milk. They differ as to whether or not the production of **milk is** sufficient to **exempt**[H] an animal from having its next offspring counted a firstborn. **Rabbi Akiva holds: Milk exempts** it, as we **follow the majority of animals, and the majority of animals do not produce milk unless they** have **given birth. And Rabbi Yehoshua holds:** Since **there is a minority** of animals **that** do **produce milk even though they** have **not given birth,**[B] the animal that is born later is an uncertain firstborn.

וּמִי חָיֵישׁ רַבִּי יְהוֹשֻׁעַ לְמִיעוּט? וְהָתְנַן: הָיְתָה לָהּ חֲמוֹתָהּ – אֵינָהּ חוֹשֶׁשֶׁת; יָצְאָה מְלֵיאָה – חוֹשֶׁשֶׁת, רַבִּי יְהוֹשֻׁעַ אוֹמֵר אֵינָהּ חוֹשֶׁשֶׁת.

The Gemara asks: **And is Rabbi Yehoshua concerned for a minority? Didn't we learn** in a mishna (*Yevamot* 119a): If a woman's husband passed away before she had given birth to any children and the husband had no known brothers who could perform levirate marriage, even though **she has a mother-in-law** who traveled overseas and may have conceivably given birth to a male who could later perform levirate marriage, **she does not** need **to be concerned** for that possibility and may marry another man without finding out if a male child had been born. But if the mother-in-law **left** while she was **full,** i.e., pregnant, the daughter-in-law must **be concerned** that a male might have been born. **Rabbi Yehoshua says: She does not** need **to be concerned.**

וְאָמְרִינַן: מַאי טַעְמָא דְּרַבִּי יְהוֹשֻׁעַ? קָסָבַר: רוֹב מְעוּבָּרוֹת יוֹלְדוֹת, וּמִיעוּט מַפִּילוֹת, וְכָל הַיּוֹלְדוֹת – מֶחֱצָה זְכָרִים וּמֶחֱצָה נְקֵבוֹת; סְמוֹךְ מִיעוּטָא דְּמַפִּילוֹת לְמֶחֱצָה דִּנְקֵבוֹת – וְהָווּ לְהוּ זְכָרִים מִיעוּטָא, וּלְמִיעוּטָא לָא חָיֵישִׁינַן!

And we say: What is the reasoning of Rabbi Yehoshua? He holds the majority of pregnant women give birth to a child **and a minority miscarry. And** of **all** those **who give birth, half** bear **males and half** bear **females. Combine the minority of those who miscarry with the half** that give birth **to females, and** conclude that the **males are** in fact **a minority, and we are not concerned for a minority.** Evidently, Rabbi Yehoshua holds there is no need to be concerned for a minority.

אֶלָּא אֵיפוּךְ. וְהָתַנְיָא: חָלָב פּוֹטֵר, דִּבְרֵי רַבִּי יְהוֹשֻׁעַ, רַבִּי עֲקִיבָא אוֹמֵר: חָלָב אֵינוֹ פּוֹטֵר.

Rather, reverse the two opinions in the mishna. **And** in fact **it is taught** in that manner in a *baraita*: The production of **milk exempts** an animal from having its offspring counted a firstborn; this is **the statement of Rabbi Yehoshua. Rabbi Akiva says:** The production of **milk does not exempt** an animal from having its offspring counted a firstborn.

§ תָּנוּ רַבָּנַן: גְּדָיָה שֶׁיָּלְדָה שָׁלֹשׁ בָּנוֹת, וְכָל בְּנוֹתֶיהָ יָלְדוּ שָׁלֹשׁ שָׁלֹשׁ – כּוּלָּן נִכְנָסוֹת לַדִּיר לְהִתְעַשֵּׂר. אָמַר רַבִּי שִׁמְעוֹן: אֲנִי רָאִיתִי שֶׁעִישְּׂרָה בְּתוֹךְ שְׁנָתָהּ. לָמָּה לִי לְמֵימַר "שָׁלֹשׁ שָׁלֹשׁ"? תּוֹלִיד חַד מִינַּיְיהוּ תְּלָת, וְאִינָךְ תַּרְתֵּי תַּרְתֵּי!

§ **The Sages taught** in a *baraita*: In the case of **a kid that gave birth to female triplets**[BH] **and all her offspring each gave birth to female triplets, all of them,** i.e., the offspring and their offspring, **enter the pen to be tithed.** The animal tithe[B] applies only if one owns at least ten or more animals born in the same year that are not male firstborns. **Rabbi Shimon says: I saw** a single kid **that** yielded enough offspring to be subject to the **tithe within its first year** of life. The Gemara asks: **Why do I** need the *baraita* **to teach** that **each** offspring gave birth to **three** other offspring? Let **one of them give birth to three, and** let **the other** two give birth to **two each,** so that there are a total of ten goats born within a single year, which are therefore subject to the tithe.

BACKGROUND

Produce milk even though they have not given birth – חוֹלְבוֹת אַף עַל פִּי שֶׁאֵין יוֹלְדוֹת: In general, animals that have not given birth do not produce milk. Goats are an exception, as some produce milk before giving birth as a result of hormonal changes due to normal brain development.

A kid that gave birth to female triplets – גְּדָיָה שֶׁיָּלְדָה שָׁלֹשׁ בָּנוֹת: A kid can become pregnant at the age of three months, and its pregnancy lasts five months. Consequently, it is possible for a goat to give birth and for that offspring to give birth to another offspring within a single year. In the usual litter, twin goats are often born, and the birth of triplets is unexceptional.



Goat with twin kids

Animal tithe – מַעְשַׂר בְּהֵמָה: On three occasions each year, the owner of a herd of kosher animals is required to gather all the animals born during the preceding period into an enclosure, and let them out one by one. These animals are passed "under the shepherd's rod" (Leviticus 27:32), and every tenth animal is marked with red paint to indicate that it is sacred. These animals are called animal tithe. If the animal is fit for sacrifice it is brought to the Temple and sacrificed in a manner similar to a peace offering. Its blood is sprinkled on the altar and its meat is eaten by its owner, not by the priests.

HALAKHA

The production of milk is sufficient to exempt – חָלָב פּוֹטֵר: An animal that has begun producing milk and later gives birth to a male is exempt from having it counted a firstborn, as the majority of animals do not produce milk before giving birth. This *halakha* is in accordance with the opinion of Rabbi Yehoshua, as he was Rabbi Akiva's teacher (*Kesef Mishne*). This is also the opinion of the majority of the early commentaries. The Rema notes that there is an opinion that the production of milk is insufficient to exempt an animal from the obligation of a firstborn, which means the status of the offspring as a firstborn is uncertain, as indicated by the Gemara on 24a (see *Tosafot*, citing Rabbeinu Tam). The Rema adds that the practice in his community is to be lenient in any case where there is some other cause, even a minor one, to think the animal has previously given birth. All of these *halakhot* apply only to cows, not to goats, as goats are known to produce milk without having given birth (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:8; *Shulḥan Arukh*, *Yoreh De'a* 316:3).

A kid that gave birth to female triplets – גְּדָיָה שֶׁיָּלְדָה שָׁלֹשׁ בָּנוֹת: Ten or more animals born between the first of Tishrei and the twenty-ninth of Elul are grouped together and tithed. If five were born on the twenty-ninth of Elul and another five on the first of Tishrei, they are not combined and are not tithed at all. In the case of a goat that gives birth to offspring within its first year, it and its offspring are tithed together (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:6).

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אַיְידֵי דְּאִיכָּא חֲדָא דְּלָא סָגְיָא בְּלָא שָׁלֹשׁ, תְּנָא כּוּלְּהוּ דְּיָלְדוּ שָׁלֹשׁ שָׁלֹשׁ. וְלָמָּה לִי לְמֵיתְנֵי שָׁלֹשׁ כְּלָל? לֵילְדוּ כּוּלְּהוּ תַּרְתֵּי, וְתֵיהַדַּר אִיהִי וְתוֹלִיד בַּהֲדֵיהֶן!

The Gemara answers: **Since there is one** goat in this case **that would not** produce **a sufficient** number of offspring **without** giving birth to **three,** the *baraita* **taught** a case where **all** three goats **gave birth to three** offspring **each,** for the sake of consistency. The Gemara asks: **But why do I** need **to teach** that any goat gave birth to **three** at once **at all? Let all** the second-generation goats **give birth to two** offspring, **and let her,** the mother of the three second-generation goats, **give birth again** to another goat **together with them.** The fact that the *baraita* did not teach this case indicates that a goat cannot give birth again within the same year.

Perek **III**
Daf **21** Amud **a**

לֵימָא קָסָבַר מְטַנֶּפֶת אֵינָהּ חוֹזֶרֶת וְיוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ? אִם תֵּימְצֵי לוֹמַר מְטַנֶּפֶת חוֹזֶרֶת וְיוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ, יוֹלֶדֶת – וַדַּאי אֵינָהּ חוֹזֶרֶת וְיוֹלֶדֶת בְּתוֹךְ שְׁנָתָהּ.

Shall we say the *tanna* of this *baraita* **holds** that an animal that **expels a murky discharge does not return** to its fertile state **and give birth within its first year?** The Gemara rejects this suggestion: It is possible the *tanna* does not hold that opinion. Even **if you say** an animal that **expels a murky discharge returns** to its fertile state **and gives birth within its first year,** an animal **that** actually **gave birth** to a live offspring **certainly does not return** to its fertile state **and give birth within its first year.**

״אָמַר רַבִּי שִׁמְעוֹן אֲנִי רָאִיתִי גְּדָיָיה״ כו׳. מַאי אִיכָּא בֵּין תַּנָּא קַמָּא לְרַבִּי שִׁמְעוֹן? אִיכָּא בֵּינַיְיהוּ דְּזֵעִירִי,

§ The *baraita* teaches that **Rabbi Shimon says: I saw** a single **kid** that yielded enough offspring to be subject to the tithe within its first year of life. By contrast, the first *tanna* in the *baraita* does not add the phrase: Within its first year of life. The Gemara asks: **What** difference **is there between** the opinion of **the first *tanna* and** that of **Rabbi Shimon?** The Gemara answers that there is a difference **between** them in a case where the second-generation goats expel a murky discharge on the first day of their seventh month, which is the seventh month of their year for animal tithe. And they disagree with regard to the statement **of Ze'eiri,** cited earlier, that the expulsion of a discharge which exempts an animal from having its future offspring counted a firstborn is one which prevents it from being impregnated for no less than thirty days.

תַּנָּא קַמָּא – אִית לֵיהּ דְּזֵעִירִי, וְרַבִּי שִׁמְעוֹן – לֵית לֵיהּ דְּזֵעִירִי. וְאִיבָּעֵית אֵימָא: דְּכוּלֵּי עָלְמָא אִית לְהוּ דְּזֵעִירִי, וְהָכָא בְּיוֹלֶדֶת לְמִקּוּטָּעִין קָא מִיפַּלְגִי, לְתַנָּא קַמָּא – אֵינָהּ יוֹלֶדֶת לְמִקּוּטָּעִין, לְרַבִּי שִׁמְעוֹן – יוֹלֶדֶת.

The first *tanna* accepts the statement **of Ze'eiri,** and therefore he holds that in such a case the goats cannot become pregnant before the first day of the eighth month, which means they cannot give birth before the first day of the second year. **And Rabbi Shimon does not accept** the statement **of Ze'eiri;** he holds that the goats can become pregnant during the seventh month and give birth during the last month of their first year of life. **And if you wish, say that everyone accepts** the statement **of Ze'eiri, and here they disagree** with regard to whether or not an animal **gives birth after incomplete** months, i.e., prematurely. **According to the first *tanna,*** an animal **does not give birth after incomplete** months; **according to Rabbi Shimon,** an animal **gives birth** after incomplete months.

וְאִיבָּעֵית אֵימָא: דְּכוּלֵּי עָלְמָא אֵינָהּ יוֹלֶדֶת לְמִקּוּטָּעִין, וְהָכָא בִּמְקָצָת הַיּוֹם כְּכוּלּוֹ קָמִיפַּלְגִי, לְתַנָּא קַמָּא – לָא אָמְרִינַן מִקְצָת הַיּוֹם כְּכוּלּוֹ, לְרַבִּי שִׁמְעוֹן – אָמְרִינַן מִקְצָת הַיּוֹם כְּכוּלּוֹ.

And if you wish, say that everyone accepts Ze'eiri's statement and **everyone agrees** that an animal **does not give birth after incomplete** months, **and here they disagree** with regard to whether or not the halakhic status of **part of the day is like an entire** day. **According to the first *tanna,* we do not say part of the day is like an entire** day, which means the earliest possible birth is on the first day of the second year. **According to Rabbi Shimon, we do say part of the day is like an entire** day, and therefore it is possible for the goat to give birth on the last day of the first year.

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HALAKHA

Whether an animal whose time has not yet arrived enters the pen to be tithed – בִּמְחוּסַּר זְמַן נִכְנָס לַדִּיר לְהִתְעַשֵּׂר: An animal that is not yet seven days old does not enter the pen to be tithed, as stated in the mishna on 57a (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:14).

וְאִיבָּעֵית אֵימָא: דְּכוּלֵי עָלְמָא אָמְרִינַן מִקְצָת הַיּוֹם כְּכוּלּוֹ, וְהָכָא בִּמְחוּסַּר זְמַן נִכְנָס לַדִּיר לְהִתְעַשֵּׂר קָמִיפַּלְגִי.

And if you wish, say that **everyone agrees** that **part of the day is like an entire** day, **and here they disagree** with regard to whether or not an animal **whose time has not yet** arrived, i.e., one that is not yet seven days old, which may not be sacrificed on the altar, **enters the pen to be tithed.**[HN] According to the first *tanna* it does not enter the pen to be tithed; according to Rabbi Shimon, it does enter the pen to be tithed.

NOTES

Whether an animal whose time has not yet arrived enters the pen to be tithed – בִּמְחוּסַּר זְמַן נִכְנָס לַדִּיר לְהִתְעַשֵּׂר: The verse states: "When a bull, or a sheep, or a goat, is brought forth, then it shall be seven days under its mother; but from the eighth day and onward it may be accepted for an offering made by fire to the Lord" (Leviticus 22:27). The Sages derived from this verse that just as an animal may not be sacrificed until it is seven days old, it likewise cannot be consecrated as any type of offering during that period (*Torat Kohanim*).

Perek **III**
Daf **21** Amud **b**

HALAKHA

An animal whose time has not yet arrived is consecrated before its time – מְחוּסַּר זְמַן קָדוֹשׁ לִפְנֵי זְמַנּוֹ: An animal that was consecrated before it was seven days old may not be sacrificed, but it is nevertheless imbued with sanctity (Radbaz). Several early commentaries indicate it is prohibited to consecrate an animal during its first seven days (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:10, and see *Mishne LaMelekh* there).

וְהָתַנְיָא, רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה אוֹמֵר מִשּׁוּם רַבִּי שִׁמְעוֹן: מְחוּסַּר זְמַן נִכְנָס לַדִּיר לְהִתְעַשֵּׂר. וַהֲרֵי הֵן כִּבְכוֹר, מַה בְּכוֹר – קָדוֹשׁ לִפְנֵי זְמַנּוֹ וְקָרֵב לְאַחַר זְמַנּוֹ, אַף מְחוּסַּר זְמַן – קָדוֹשׁ לִפְנֵי זְמַנּוֹ וְקָרֵב לְאַחַר זְמַנּוֹ.

The Gemara adds: **And** in fact **it is taught** in a *baraita* that **Rabbi Shimon ben Yehuda says in the name of Rabbi Shimon:** An animal **whose time has not yet** arrived **enters the pen to be tithed. And** these animals **are like a firstborn: Just as a firstborn** is **consecrated before its time and** is **sacrificed after its time, so too,** an animal **whose time has not yet** arrived is **consecrated before its time**[HN] **and sacrificed after its time.**

וְאַדְּיָלֵיף מִבְּכוֹר, נֵילֵיף מֵקָדָשִׁים? מִסְתַּבְּרָא, מִבְּכוֹר הֲוָה לֵיהּ לְמֵילַף, שֶׁכֵּן: גּוֹאֵל, מוּם, תְּמוּרַת, אֲכִילָה.

The Gemara raises a difficulty: **But** rather **than deriving** the *halakha* of tithed animals **from the firstborn let one derive** it **from sacrificial** animals, which cannot be consecrated before their time arrives. The Gemara answers that **it is reasonable** to claim **it would be** appropriate **for one to derive** the *halakha* of tithed animals **from the firstborn, as** they have the following four aspects in common: First, unlike sacrificial animals, one cannot **redeem** a firstborn or a tithed animal even if it develops a blemish. Second, **a blemish** does not prevent them from being imbued with sanctity. Third, an animal that was rendered **a substitute** for a firstborn or a tithed animal is not sacrificed. Finally, they are **consumed** without having been redeemed, whereas other sacrificial animals must be redeemed first.

אַדִּרְבָּה, מִקָּדָשִׁים הֲוָה לֵיהּ לְמֵילַף, שֶׁכֵּן: זָכָר, קָדוֹשׁ, בַּמַּתָּנוֹת, פָּשׁוּט! אֶלָּא רַבִּי שִׁמְעוֹן הַעֲבָרָה הַעֲבָרָה גָּמִיר.

The Gemara responds: **On the contrary, it would be** appropriate **for one to derive** the *halakha* of tithed animals **from sacrificial** animals, **as** they have the following in common: First, unlike firstborn animals, both tithed and consecrated animals are not limited to **males.** Second, both are sanctified by human action rather than intrinsically **consecrated.** Additionally, they are not included among the **gifts** to the priest. Finally, both begin life as **regular** animals rather than as animals with the unique status of being born first. The Gemara accepts this objection: **Rather, Rabbi Shimon derives** the *halakha* from a verbal analogy between the term: "You shall **pass**" (Exodus 13:12), written with regard to the firstborn, and the term: "Whatsoever **passes** under the rod" (Leviticus 27:32), stated with regard to tithed animals.

NOTES

An animal whose time has not yet arrived is consecrated before its time – מְחוּסַּר זְמַן קָדוֹשׁ לִפְנֵי זְמַנּוֹ: A straightforward reading of the Gemara in *Temura* 19b indicates that any animal can be consecrated for any purpose, even if it is less than seven days old. *Tosafot* here maintain this is the *halakha* only with regard to animals that are being tithed. *Tosafot* on *Temura* state that all animals can be consecrated before their time has arrived, but it is prohibited to consecrate them *ab initio*. According to this opinion, the discussion here is not about whether or not an animal less than seven days old can be tithed or consecrated, but rather whether one should tithe it *ab initio* (see *Tosafot* on *Zevaḥim* 114b).

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הֵיכִי דָּמֵי טִינּוּף? אָמַר רָבָא: כִּדְאָמְרִי רַעְיָתָא דְּצַלְתָּא אֲצַר חֵיוָתָא. וּשְׁמוּאֵל אָמַר: בַּעְבּוּעֵי דְּדָמָא. וְצָרִיךְ לְהַרְאוֹתוֹ לְחָכָם. חָכָם מְנָא יָדַע? אָמַר רַב פַּפָּא: רוֹעֶה חָכָם.

§ The mishna teaches that a murky discharge is evidence of an offspring and exempts any future offspring from being counted a firstborn. The Gemara asks: **What is considered a murky discharge**[H] that exempts future offspring from firstborn status? **Rava says: As the shepherds say: A murky** [*detzalta*][L] discharge from the womb is an indicator of a fetus that **the animal suppressed**[N] in its womb. **And Shmuel says:** It is **bubbles of blood.** The Gemara adds: **And one must show** the discharge **to a Sage** [*ḥakham*] in order to determine its status. The Gemara asks: **A Sage? From where would he know** how to determine its nature? **Rav Pappa says:** The reference is to **a knowledgeable** [*ḥakham*] **shepherd,**[H] who is familiar with the different types of discharge an animal can produce.

אָמַר רַב חִסְדָּא, הֲרֵי אָמְרוּ: יְצִירַת הַוָּולָד בְּאִשָּׁה – אַרְבָּעִים יוֹם. בָּעֵי רַב חִסְדָּא: בִּבְהֵמָה בְּכַמָּה? אֲמַר לֵיהּ רַב פַּפָּא לְאַבַּיֵי: לָאו הֵיינוּ דְּזֵעִירִי, דְּאָמַר זְעֵירִי: אֵין טִינּוּף פָּחוֹת מִשְּׁלֹשִׁים יוֹם? הַהוּא לְקַבֵּל אִיתְּמַר.

Rav Ḥisda says: They said the formation of a fetus in a woman takes **forty days.**[NH] **Rav Ḥisda** therefore **asks: In an animal, how many** days does it take for the fetus to form? **Rav Pappa said to Abaye: Isn't this** question resolved by that **which Ze'eiri said, as Ze'eiri said: A murky discharge** occurs **no less than thirty days** after conception? The Gemara explains: No; **that was stated with regard to** the thirty days after expulsion of a murky discharge, during which a female does not **show receptivity to** a male[N] and does not become pregnant. The Gemara leaves Rav Ḥisda's inquiry unresolved.

מָצִינוּ לוֹקֵחַ מִגּוֹי, לוֹקֵחַ מִיִּשְׂרָאֵל מַאי? אָמַר רַב: בְּכוֹר וַדַּאי, דְּאִם אִיתָא דְּבִכְרָה – אִישְׁתַּבּוּחֵי הֲוָה מִישְׁתַּבַּח לֵיהּ.

§ **We found** that the mishna discusses the *halakha* of one **who purchases** an animal **from a gentile.** The Gemara asks: **What** is the *halakha* with regard to **one who purchases** an animal **from a Jew**[H] and it is unknown whether the animal had previously given birth? **Rav says:** Its offspring is **a definite firstborn, as if it is so that it had** previously **given birth to a firstborn,** the owner **would have boasted to** the buyer[N] about the fact that he would not have to give its offspring to a priest.

HALAKHA

What is considered a murky discharge – הֵיכִי דָּמֵי טִינּוּף: The murky discharge referred to in the Gemara is the miscarriage of a fetus that has not yet developed into a recognizable form. If the shepherds determine that the fetus had formed but was later distorted, the animal is exempt from having any future offspring counted a firstborn (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:10 and Mahari Kurkus there; *Shulḥan Arukh*, *Yoreh De'a* 315:7).

And one must show the discharge…to a knowledgeable shepherd – וְצָרִיךְ לְהַרְאוֹתוֹ...לְרוֹעֶה חָכָם: One must present a murky discharge expelled by an animal to an expert shepherd in order to determine whether or not it is an expelled fetus (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:10; *Shulḥan Arukh*, *Yoreh De'a* 315:7).

The formation of a fetus in a woman takes forty days – יְצִירַת הַוָּולָד בְּאִשָּׁה אַרְבָּעִים יוֹם: According to *halakha*, a human fetus takes shape forty days after conception. If a woman miscarried before that stage, the miscarriage is not considered to have been a firstborn. The Sages did not establish a set estimate for the number of days it takes an animal fetus to take shape. The Sages did determine that an animal that miscarried does not become pregnant again for at least thirty days, in accordance with the opinion of Ze'eiri (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:12).

What is the *halakha* with regard to one who purchases an animal from a Jew, etc. – לוֹקֵחַ מִיִּשְׂרָאֵל מַאי וכו': One who purchases an animal from a Jew may assume it has previously given birth unless the seller informs him otherwise. It is understood that a Jewish seller would notify the buyer that the animal had not yet given birth in order to prevent him from violating a prohibition, in accordance with the opinion of Rabbi Yoḥanan. Some hold the *halakha* is in accordance with the opinion of Shmuel, as his is the majority opinion: Rav and Shmuel agree that the offspring is considered to have firstborn status, while Rabbi Yoḥanan and Shmuel agree that the priest cannot claim the animal. Accordingly, the animal may be eaten by the owner in its blemished state (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:9; *Shulḥan Arukh*, *Yoreh De'a* 316:6, and in the comment of Rema).

LANGUAGE

Murky [*tzalta*] – צַלְתָּא: Some claim Tzalta is the name of a place, and Rava is quoting the shepherds who resided there. This is somewhat questionable, as there is no record of any such place. Others suggest that *tzalta* means a kind of filth, which is the meaning of the similar Syriac word tzalata.

NOTES

As the shepherds say, a murky discharge is an indicator of a fetus that the animal suppressed – כִּדְאָמְרִי רַעְיָתָא דְּצַלְתָּא אֲצַר חֵיוָתָא: According to some commentaries, the shepherds are referring to a phenomenon in which the animal suppresses a fetus and then expels a murky discharge (Rabbeinu Gershom Meor HaGola). Rashi maintains the womb itself is blocked and the fetus inside disintegrates.

The formation of a fetus in a woman takes forty days – יְצִירַת הַוָּולָד בְּאִשָּׁה אַרְבָּעִים יוֹם: A human fetus does not fully take shape and still lacks a recognizably human form until forty days from conception have passed (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 10:1), and therefore a woman who miscarried before that time does not contract the ritual impurity of a woman who has given birth (Rashi). Furthermore, the next child born to that woman has the status of a firstborn (see Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:14).



Human embryo at slightly less than forty days post-conception

Thirty days after expulsion a female does not show receptivity to a male – הַהוּא לְקַבֵּל: The Gemara is translated in accordance with the interpretation of Rashi, who explains that a female animal will not copulate with a male animal within the thirty days following a murky discharge. Others maintain that a female animal is physically incapable of becoming pregnant during this time, even if she does copulate with a male (Rambam). Yet others cite a different interpretation, according to which an animal expels a murky discharge for thirty days before it is ready to become pregnant (Rabbeinu Gershom Meor HaGola).

The owner would have boasted to the buyer – אִישְׁתַּבּוּחֵי הֲוָה מִישְׁתַּבַּח לֵיהּ: Rashi explains that the boast is that the new owner will not need to give this animal's offspring to a priest. If so, it is easy to understand why this does not apply to a gentile seller, who is unfamiliar with the *halakhot* of a firstborn (*Tosafot Ḥitzoniyyot*). Others write that the seller is boasting because if an animal has previously given birth its life is less likely to be threatened by the birth of future offspring (*Tosafot*). Another possibility is that the milk produced by an animal that has given birth is of higher quality, and accordingly the animal itself is worth more (*Levush*, *Yoreh De'a* 316). According to these explanations, although it would be reasonable for the same *halakha* to apply in the case of a gentile seller, Rav holds there is a concern the gentile might be lying in order to gain a higher profit (*Tosafot*).

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וּשְׁמוּאֵל אָמַר: בְּכוֹר סָפֵק, סָבַר לִשְׁחִיטָה קָא בָּעֵי לֵיהּ. וְרַבִּי יוֹחָנָן אָמַר: חוּלִּין וַדַּאי. מַאי טַעְמָא? אִם אִיתָא דְּלָא בְּכָרָה, כֵּיוָן דְּאִיכָּא אִיסּוּרָא – אוֹדוּעֵי הֲוָה מוֹדַע לֵיהּ.

And Shmuel says: The **firstborn** status of its offspring is **uncertain,** as even if it had previously given birth the seller **thinks** the buyer **wants it for slaughter,** and therefore he does not bother informing him of its status. **And Rabbi Yoḥanan says:** Its offspring is **certainly a non-sacred** animal. **What is the reason? If it is so that it had not** previously **given birth, since there is a prohibition** involved, it can be assumed that the seller **would have notified** the buyer of the animal's status.

תַּנְיָא כְּוָותֵיהּ דְּרַבִּי יוֹחָנָן דְּאָמַר חוּלִּין: אִם לֹא הוֹדִיעוֹ – הוֹלֵךְ וְשׁוֹחֵט וְאֵינוֹ נִמְנָע. לֵימָא תֵּיהֱוֵי תְּיוּבְתָּא דְּרַב וּשְׁמוּאֵל? הָתָם – בַּמּוֹכֵר תַּלְיָא מִילְּתָא, הָכָא – בַּלּוֹקֵחַ תַּלְיָא מִילְּתָא.

The Gemara notes: It **is taught** in a *baraita* **in accordance with** the opinion **of Rabbi Yoḥanan, who says** the offspring is **non-sacred:** With regard to the prohibition against slaughtering a mother and its offspring in the same day, **if** the seller **did not inform** the buyer[N] that the mother or offspring of the animal he is purchasing was sold earlier that day, the buyer may **go and slaughter the animal and he** need **not refrain** from doing so.[H] **Shall we say this** *baraita* **is a conclusive refutation of** the opinions of **Rav and Shmuel?** The Gemara rejects this suggestion: **There,** with regard to slaughtering a mother and its offspring, **the matter is dependent upon the seller,**[H] as it is his responsibility to notify the buyer. **Here,** in the case of a firstborn, **the matter is dependent upon the buyer,**[N] and it is his responsibility to inquire about the animal's status.

מתני׳ רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: בְּהֵמָה גַּסָּה שֶׁשָּׁפְעָה חֲרָרַת דָּם – הֲרֵי זוֹ תִּקָּבֵר, וּפְטוּרָה מִן הַבְּכוֹרָה.

MISHNA **Rabbi Eliezer ben Ya'akov says:** In the case of **a large animal that expelled a mass of** congealed **blood,**[H] **that** mass **must be buried.** The reason is that perhaps there was a male fetus there which was consecrated as a firstborn when it emerged, **and** the animal **is exempt from** having any future offspring counted **a firstborn.**

גמ׳ תָּנֵי רַבִּי חִיָּיא: אֵינָהּ מְטַמְּאָה לֹא בְּמַגָּע וְלֹא בְּמַשָּׂא. וּמֵאַחַר דְּאֵינָהּ מְטַמְּאָה לֹא בְּמַגָּע וְלֹא בְּמַשָּׂא, אַמַּאי תִּקָּבֵר?

GEMARA **Rabbi Ḥiyya teaches:** That mass of congealed blood **does not impart** ritual **impurity,**[H] **neither through** physical **contact nor through carrying** it. The Gemara asks: **But since does not impart impurity, neither through contact nor through carrying,** which indicates that it is not considered a fetus, **why** must it be **buried?**

NOTES

If the seller did not inform the buyer – אִם לֹא הוֹדִיעוֹ: This *baraita* is taught in connection to a mishna in *Ḥullin* (83a), which lists the days during the year when a seller is obligated to notify a buyer if the mother or offspring of the animal he is purchasing had been sold earlier that day. These days include the eve of Passover, the eve of the Festival day at the close of *Sukkot*, the eve of *Shavuot*, and the eve of Rosh HaShana, and also Yom Kippur eve according to Rabbi Yosei HaGelili. These days are singled out because animals would often be purchased and slaughtered on them, and therefore it is likely that any mother or offspring that was sold earlier that day had been slaughtered by its buyer.

The matter is dependent upon the buyer – בַּלּוֹקֵחַ תַּלְיָא מִילְּתָא: Rashi states that it is derived from the verses that with regard to the prohibition against slaughtering a mother and its offspring on the same day, the responsibility is upon the seller to inform the buyer if he sold both on one day, whereas in the case of a firstborn it is the seller's responsibility to inquire whether the animal in question has already given birth. Others suggest that in the case of the two transactions on the same day, there is no reason for the buyer to think the animal's mother was also sold on that day, whereas with regard to a firstborn he knows that for every female animal that comes into his possession he must clarify whether or not it has already given birth (*Tosafot*). Yet others explain the reason for this distinction as follows: By selling an animal whose mother or offspring had been sold earlier that day, the seller is essentially providing the buyer with non-kosher meat if he fails to notify him of the earlier sale. Conversely, in the case of a firstborn, it is not certain that the animal will give birth at all, and even if it does it is not certain that it will bear a male (*Shem Olam* Responsa 47).

HALAKHA

He may go and slaughter the animal and he need not refrain from doing so – הוֹלֵךְ וְשׁוֹחֵט וְאֵינוֹ נִמְנָע: One who purchases an animal need not concern himself with the possibility that its mother or offspring might have been slaughtered earlier that day (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:14; *Shulḥan Arukh*, *Yoreh De'a* 16:6, and in the comment of Rema).

The matter is dependent upon the seller – בְּמוֹכֵר תַּלְיָא מִילְּתָא: The seller is obligated to inform the buyer that the mother or offspring of the animal he is purchasing was slaughtered earlier that day, or that it was sold to someone whose explicit intention was to slaughter it on the same day. If the purchase was made on the eve of Passover, the eve of the Festival day at the close of *Sukkot*, the eve of *Shavuot*, or the eve of Rosh HaShana, he must inform the buyer of an earlier sale even if the intention to slaughter the animal was not explicitly stated (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:14; *Shulḥan Arukh*, *Yoreh De'a* 16:6, and *Shakh* and *Taz* there).

A large animal that expelled a mass of congealed blood – בְּהֵמָה גַּסָּה שֶׁשָּׁפְעָה חֲרָרַת דָּם: A large animal that expelled a mass of congealed blood is exempt from having its future offspring counted a firstborn. The mass must be buried in order to publicize the exemption (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:11; *Shulḥan Arukh*, *Yoreh De'a* 316:7).

Does not impart ritual impurity – אֵינָהּ מְטַמְּאָה: A mass of congealed blood expelled by a large animal does not impart ritual impurity. If the mass has the appearance of a fetus, it does impart ritual impurity. This *halakha* is in accordance with the *baraita* taught by Rabbi Ḥiyya and Rabbi Yoḥanan's explanation on the next *amud* (Rambam *Sefer Tahara*, *Hilkhot She'ar Avot HaTumot* 1:16).

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כְּדֵי לְפַרְסְמָהּ שֶׁנִּפְטָרָה מִן הַבְּכוֹרָה.

The Gemara answers: It must be buried **in order to publicize that** the animal **is exempt from** having its future offspring counted **a firstborn.**

לְמֵימְרָא דְּוָלָד מְעַלְיָא הוּא; וְאַמַּאי אֵין מְטַמֵּא לֹא בְּמַגָּע וְלֹא בְּמַשָּׂא? אָמַר רַבִּי יוֹחָנָן: מְשׁוּם בִּיטּוּל בְּרוֹב נָגְעוּ בָּהּ.

The Gemara notes with regard to the ruling of the mishna that the animal is exempt from having any future offspring counted as firstborn: That is **to say that** the expelled mass **is a full-fledged offspring. But** if so, **why doesn't it impart** ritual **impurity, neither through** physical **contact nor through carrying? Rabbi Yoḥanan says:** It is **due to** the halakhic **nullification** of a forbidden substance **in a majority** of permitted substances that the Sages **touched upon it,** in order to exclude it from impurity through contact or carrying. In other words, the fetus is in fact considered a full-fledged offspring, but it is does not impart impurity because it is nullified by the rest of the congealed mass.

וְאָזְדָא רַבִּי יוֹחָנָן לְטַעְמֵיהּ, דְּאָמַר רַבִּי יוֹחָנָן: רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב וְרַבִּי שִׁמְעוֹן אָמְרוּ דָּבָר אֶחָד. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב – הָא דַּאֲמַרַן,

The Gemara comments: **And Rabbi Yoḥanan follows his** line of **reasoning** in this regard, **as Rabbi Yoḥanan says: Rabbi Eliezer ben Yaakov and Rabbi Shimon** both **said the same thing,** i.e., they both issued rulings based on the same principle. The relevant statement of **Rabbi Eliezer ben Yaakov** is **that which we said** previously, i.e., that the expelled mass does not impart ritual impurity because the fetus is nullified by the majority.

רַבִּי שִׁמְעוֹן מַאי הִיא? דְּתָנַן: הַשִּׁלְיָא בַּבַּיִת – הַבַּיִת טָמֵא. לֹא שֶׁהַשִּׁלְיָא וָלָד, אֶלָּא שֶׁאֵין שִׁלְיָא בְּלֹא וָלָד. רַבִּי שִׁמְעוֹן אוֹמֵר: וָלָד נִימּוֹק עַד שֶׁלֹּא יֵצֵא.

And **what is** the statement of **Rabbi Shimon** to which Rabbi Yoḥanan was referring? It is **as we learned** in a mishna (*Nidda* 18a): If a woman miscarried and **the afterbirth** is **in the house,**[H] **the house is impure.** The reason is **not that the afterbirth** itself has the status of an **offspring, but that there is no afterbirth without an offspring** within it, even if it is undetected. **Rabbi Shimon says:** The **offspring disintegrated before it emerged** with the afterbirth. Consequently, the house is not rendered impure, because the disintegrated fetus is nullified by the majority.

§ תָּנֵי הָתָם: אֵין לְנִפָּלִים פְּתִיחַת הַקֶּבֶר עַד שֶׁיַּעְגִּילוּ רֹאשׁ כְּפִיקָה. מַאי "כְּפִיקָה"? אָמַר רַב הוּנָא: כְּפִיקָה שֶׁל צֶמֶר. אֲמַר לֵיהּ חִיָּיא בַּר רַב לְרַב הוּנָא: רַבִּי פָּרִישׁ, שֶׁל שְׁתִי אוֹ שֶׁל עֵרֶב?

§ The Gemara continues discussing the ritual impurity imparted by a fetus. **We learned** in a mishna **elsewhere** (*Oholot* 7:4): If a fetus dies in its mother's womb, it imparts ritual impurity from when the womb opens. Yet **deceased fetuses do not**[N] impart ritual impurity in this manner even during **the opening of the womb, until the head** of the fetus is **round**[H] **like** the size of **a skein** [*pika*][LN] of yarn. The Gemara asks: **What is** the meaning of: **Like a skein? Rav Huna said:** It means **like a skein of woolen** yarn. **Ḥiyya bar Rav said to Rav Huna: My teacher, explain** your statement: Were you referring to a skein **of warp** threads **or** a skein **of** the thicker **woof** threads?

HALAKHA

The afterbirth is in the house – הַשִּׁלְיָא בַּבַּיִת: If a woman emitted an afterbirth in a house, the entire house is rendered impure, as it is assumed that an afterbirth always contains a fetus. This ruling is an accordance with the opinion of the first *tanna* in the mishna in *Nidda* 26a (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 25:10, and see *Leḥem Mishne* on *Sefer Korbanot*, *Hilkhot Bekhorot* 4:11).

Until the head of the fetus is round – עַד שֶׁיַּעְגִּילוּ רֹאשׁ: If a fetus died in its mother's womb and its head is the size of a skein of warp threads, and it is at the entrance of the womb, the house is rendered impure despite the fact that the fetus has not yet emerged from its mother's body. The Rambam writes that if a woman traveled between two houses while in labor and gave birth in the second house, the first residence is considered impure due to the possibility that the head of the fetus emerged there. This is the *halakha* only if the fetus' head was not the size of a skein of warp threads. If it was that size, the first house remains pure, as had the womb opened while she was there the woman would not have been able to walk on her own. This ruling is in accordance with the two interpretations of the mishna in tractate *Oholot* (7:4), and the opinion of Rabbi Yoḥanan (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 25:8).

LANGUAGE

Skein [*pika*] – פִּיקָה: A kind of spherical mass. It can refer to a round skein of thread or to a marble-like piece of metal or stone. Here it is referring to either a skein of wool or the round stone around which the wool is wrapped.

NOTES

Deceased fetuses do not, etc. – אֵין לְנִפָּלִים וכו': A deceased fetus does not impart ritual impurity while it is still inside its mother's womb, as it is entirely enveloped. Once the womb opens, it imparts impurity to all items in the house as though it had fully emerged. This is the *halakha* only with regard to a full-fledged fetus whose head is the size of a skein of wool, and is at the opening of the womb. Smaller deceased fetuses impart ritual impurity only when the head completely exits the mother's body. The Rambam's Commentary on the Mishna explains this Gemara in an entirely different manner. Based on an earlier discussion, he writes that the indication that a womb has opened sufficiently for a fetus to impart impurity is when the mother can no longer walk on her own. The mishna adds that this applies only to a fetus whose head is larger than a skein of wool; a smaller fetus imparts ritual impurity even while its mother can walk unaided (see *Tosefot Yom Tov*).

Like a skein – כְּפִיקָה: Rashi explains that this is referring to the size of a skein of wool. Others suggest it means the size of the stone around which the wool was wrapped while it was spun (Rabbeinu Gershom Meor HaGola).

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אָמַר לֵיהּ, תַּנְיָא: פִּיקָה שֶׁל שְׁתִּי, דִּבְרֵי רַבִּי מֵאִיר. רַבִּי יְהוּדָה אוֹמֵר: שֶׁל עֵרֶב. רַבִּי אֱלִיעֶזֶר בְּרַבִּי צָדוֹק אוֹמֵר: מְשִׁיְּרָאוּ טְפִיפִיּוֹת. מַאי "טְפִיפִיּוֹת"? אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל מִשּׁוּם רַבִּי אֱלִיעֶזֶר בְּרַבִּי צָדוֹק, כָּךְ הָיוּ מְפָרְשִׁין בִּירוּשָׁלַיִם: כִּפְרֵידָה שֶׁכּוֹרַעַת לְהַטִּיל מֵימֶיהָ, וְנִרְאֵית פִּיקָה מִתּוֹךְ פִּיקָה.

Rav Huna **said to him:** It **is taught** in a *baraita* (*Tosefta*, *Oholot* 8:5): Deceased fetuses do not impart ritual impurity until the head of the fetus is the size of **a skein of warp** threads; this is **the statement of Rabbi Meir. Rabbi Yehuda says:** The head must be the size of a skein **of woof** threads. **Rabbi Eliezer, son of Rabbi Tzadok, says:** The fetus imparts ritual impurity **from** the time that ***tefifiyot* are seen** near the opening of the womb. The Gemara asks: **What** are ***tefifiyot*? Rav Yehuda says** that **Shmuel says in the name of Rabbi Eliezer, son of Rabbi Tzadok: This** is **how they would explain it in Jerusalem:** *Tefifiyot* are **like** the folds of skin that form when **a mule bends down to urinate, and** the area near the womb **appears** as **a skein** emerging **from within a skein.**

אָמַר רַב הוּנָא: שָׁמַעְתִּי שְׁתֵּי פִּיקוֹת, אַחַת שֶׁל שְׁתִּי וְאַחַת שֶׁל עֵרֶב, וְאֵין לִי לְפָרֵשׁ. כִּי אֲתָא רַב דִּימִי אָמַר רַבִּי יוֹחָנָן: שָׁלֹשׁ פִּיקוֹת שָׁמַעְתִּי, אַחַת שֶׁל שְׁתִּי, וְאַחַת שֶׁל עֵרֶב, וְאַחַת שֶׁל פִּיקָה גְּדוֹלָה שֶׁל סַקָּאִין, וְאֵין לִי לְפָרֵשׁ. כִּי אֲתָא רָבִין פֵּירְשָׁהּ מִשְּׁמֵיהּ דְּרַבִּי יוֹחָנָן: שֶׁל אִשָּׁה – כְּשֶׁל שְׁתִּי, שֶׁל בְּהֵמָה – כְּשֶׁל עֵרֶב,

Rav Huna says: I heard two different *halakhot* with regard to **skeins:**[B] **One** involves a skein **of warp** threads **and** the other **one** involves a skein **of woof** threads, **and I do not have** the knowledge **to explain** to which matter these *halakhot* refer. **When Rav Dimi came** to Babylonia from Eretz Yisrael, he said that **Rabbi Yoḥanan said:** With regard to **skeins, I heard three** different *halakhot*: **One** involves a skein **of warp** threads, **and one** a skein **of woof** threads, **and one a large skein** used by **sack makers, and I do not have** the knowledge **to explain** to which matter these *halakhot* refer. **When Ravin came**[B] to Babylonia from Eretz Yisrael, **he explained this in the name of Rabbi Yoḥanan:** To impart ritual impurity, the head of a fetus in the womb **of a woman** must be the size **of** a skein **of warp** threads, and the head **of an animal** fetus must be the size **of** a skein **of woof** threads.[H]

פִּיקָה גְּדוֹלָה שֶׁל סַקָּאִין – כִּדְתָנֵי: גּוּשׁ הַבָּא מִבֵּית הַפְּרָס, מֵאֶרֶץ הָעַמִּים – שִׁיעוּרוֹ כְּפִיקָה גְּדוֹלָה שֶׁל סַקָּאִין, שֶׁהוּא כְּחוֹתָם הַמַּרְצוֹפִין, וְיֶשְׁנוֹ בְּצַד הָעֶלְיוֹן שֶׁל מְגוּפַּת הֶחָבִית הַלַּחְמִית.

As for the *halakha* involving **a large skein** used by **sack makers,** it is **as we learned** in a *baraita* (*Tosefta*, *Kelim Bava Metzia* 7:1): For it to impart ritual impurity, **a clod** of earth **that comes from an area in which uncertainty exists concerning the location of a grave or a corpse** [***beit haperas***],[H] or **from the land of the** gentile **nations,**[N] must be of the **measure of a large skein** used **by sack makers,** the size of **which is like the seal of large sacks** [***martzofin***].[L] **And** an item of **this** size **is** also **found on the top side of the seal of a Bethlehem jug.**[B]

BACKGROUND

Skeins – פִּיקוֹת: During the weaving process, the threads of the warp are held in place while the threads of the woof, also called weft, are passed through them. The warp threads are thinner and stronger than the woof threads, and a skein of warp threads is therefore smaller than a skein of woof threads containing the same length of thread. Sacks were woven with exceptionally thick thread, and the skeins used by sack makers were larger than a skein of woof threads.



Warp and woof

When Ravin came – כִּי אֲתָא רָבִין: Rav Dimi and Ravin were among the Sages who would often travel between Eretz Yisrael and Babylonia, primarily to transmit the Torah of Eretz Yisrael to the Torah centers of the Diaspora, although they occasionally arrived on business as well. Many questions, particularly ones involving the statements of the Sages of Eretz Yisrael, remained unresolved in Babylonia until a messenger from Zion would arrive and elucidate a novel expression or the unique circumstances pertaining to a particular statement that required clarification.

Seal of a Bethlehem jug – מְגוּפַּת הֶחָבִית הַלַּחְמִית: It is known that there were various places where earthenware jugs were manufactured, Bethlehem among them. They would produce large jugs capable of holding roughly two *se'a* of liquid. Estimates of the modern equivalent range from 14 to 29 ℓ.



Jug and seal

LANGUAGE

Large sacks [*martzofin*] – מַרְצוֹפִין: Large sacks for storing merchandise, typically goods shipped by boat. The word is derived from the Greek **μάρσιπος**, *marsipos*, a bag or pouch, and the Latin marsupium, a pouch or purse.

HALAKHA

The head of an animal fetus must be the size of a skein of woof threads – שֶׁל בְּהֵמָה כְּשֶׁל עֵרֶב: Animals that miscarry are not exempt from having their future offspring counted a firstborn unless the head of the fetus is the size of a skein of woof threads and is at the entrance to the womb, in accordance with the opinion of Rabbi Yoḥanan. The Ramban maintains that the animal is exempt at an earlier stage and that Rabbi Yoḥanan is referring to the matter of ritual impurity, not firstborn status (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:13, and see Ra'avad there).

A clod of earth that comes from a *beit haperas* – גּוּשׁ הַבָּא מִבֵּית הַפְּרָס: Clods of earth that come from a *beit haperas* or from land outside Eretz Yisrael impart ritual impurity through physical contact as well as carrying. This applies only to clods that are at least the size of a large skein used by sack makers. The *halakha* is in accordance with the statement of Rabbi Yoḥanan and the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 11:3).

NOTES

A clod of earth that comes from a *beit haperas* or from the land of the gentile nations – גּוּשׁ הַבָּא מִבֵּית הַפְּרָס, מֵאֶרֶץ הָעַמִּים: An example of a *beit haperas* is a field containing a grave that was plowed, causing bones to be scattered throughout that field. The Sages decreed that one who walks though such a field or touches or carries a clod of earth that came from it is rendered impure as though he had touched or carried the bone of a corpse. Additionally, as gentiles would often bury their dead in any available place, the Sages issued a decree that the land outside Eretz Yisrael is ritually impure. The commentaries explain that if the clod of earth is the size of a large skein it might contain a bone, but not if the clod is any smaller (Rabbeinu Gershom Meor HaGola).

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אָמַר רֵישׁ לָקִישׁ מִשּׁוּם רַבִּי יְהוּדָה נְשִׂיאָה: הַלּוֹקֵחַ צִיר מֵעַם הָאָרֶץ – מַשִּׁיקוֹ בְּמַיִם וְטָהוֹר,

§ **Reish Lakish says in the name of Rabbi Yehuda Nesia: One who purchases** fish **brine from one who is unreliable with regard to ritual impurity** [*am ha'aretz*],[H] who must purify it due to the concern that it was rendered impure while in the seller's possession, **brings it into contact with** the **water** of a ritual bath[N] so that the water touches the brine, **and** it is thereby rendered **pure.**

מִמַּה נַפְשָׁךְ; אִי מַיָּא רוּבָּא נִינְהוּ – בֵּיוָן דְּעָבִיד לְהוּ הַשָּׁקָה טָהֲרִי לְהוּ, וְאִי רוּבָּא צִיר נִינְהוּ – צִיר לָא בַּר קַבּוּלֵי טוּמְאָה הוּא. מַאי אִיכָּא – מִשּׁוּם הָנָךְ מִיעוּטָא דְּמַיָּא, הָנָךְ בָּטְלוּ לְהוּ בְּרוּבָּא.

Reish Lakish explains: The brine is pure **whichever** way **you** look at it: **If water is** the **majority** of the brine mixture, **once he brought** the brine **into contact** with the ritual bath, the water in the brine mixture **became pure** and the impurity of the brine is nullified by the majority of pure water. **And if the majority is** the **brine** excreted by the fish itself it is also pure, as **brine** alone **is not susceptible to ritual impurity.**[N] Consequently, **what** impurity **is there?** Any impurity is **due** only **to that minority of water** in the mixture, and **that** water **is nullified by the majority** of brine.

אָמַר רַבִּי יִרְמְיָה: לֹא שָׁנוּ אֶלָּא לִטְבּוֹל בָּהֶן פִּיתּוֹ, אֲבָל לִקְדֵירָה – לֹא. מָצָא מִין אֶת מִינוֹ וְנֵיעוֹר. יָתֵיב רַב דִּימִי וְקָאָמַר לְהָא שְׁמַעְתָּא, אֲמַר לֵיהּ אַבַּיֵי: וְכִי טוּמְאָה שֶׁבָּטְלָה חֲזְרָה וְנֵיעוֹרָה? אֲמַר לֵיהּ: וְאַתְּ לָא תַּסְבְּרָא? וְהָתְנַן: סְאָה תְּרוּמָה טְמֵאָה שֶׁנָּפְלָה

Rabbi Yirmeya says: The Sages **taught** that one should use that method of purification **only** if he wishes **to dip his bread in** the brine. **But for** cooking in **a pot** with other water this method is **not** effective, as the liquid of the **type** that was nullified, i.e., the water in the brine, **found its** own **type,** the water in the pot, **and is revived**[N] in its impure state, as the water which was previously only a minority of the mixture is now the majority. **Rav Dimi was sitting and saying this *halakha*. Abaye said to** Rav Dimi: **But does nullified impurity return and revive** in its impure state? Rav Dimi **said to him: And you, do you not hold** that this is the *halakha*? **But didn't we learn** in a mishna (*Teruma* 5:2): With regard to **a *se'a***[B] **of impure *teruma* that fell**

HALAKHA

One who purchases fish brine from an *am ha'aretz* – הַלּוֹקֵחַ צִיר מֵעַם הָאָרֶץ: One who purchases fish brine from an *am ha'aretz* may bring it into contact with the water of a ritual bath in order to purify it. This is effective only if one wishes to dip bread in the brine, in accordance with the opinion of Rabbi Yehuda Nesia and Rabbi Yirmeya, not if one wishes to boil the brine in a pot (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 7:5; *Shulḥan Arukh*, *Yoreh De'a* 99:6, in the comment of the Rema).

BACKGROUND

Se'a – סְאָה: A *se'a*, first mentioned in Genesis 18:6, is a measure of dry volume used by the Sages as a point of reference for many other measures of volume. Each *se'a* contains six *kav*, or twenty-four *log*. Estimates of the modern equivalent of a *se'a* range from 7.2 to 14.4 ℓ.

NOTES

Brings it into contact with the water of a ritual bath – מַשִּׁיקוֹ בְּמַיִם: There is generally no way to render impure foods and liquids ritually pure without their losing their status as food or drink. Nevertheless, the *halakha* is that one can purify impure water by bringing it into contact with the pure water of a ritual bath. This mechanism is not a form of immersion, nor of nullification by a majority. Rather, it is considered a form of planting, in which the impure water is planted, as it were, in the ritual bath, and becomes a part of it. See *Pesaḥim* 34b.

Brine alone is not susceptible to ritual impurity – צִיר לָא בַּר קַבּוּלֵי טוּמְאָה הוּא: Foods and liquids are susceptible to ritual impurity. As brine, the substance that seeps out of fish while they are salted, is neither of these, it is therefore not susceptible to impurity (see Rashi; Ra'avad on *Eduyyot* 8:7).

Revived [*neior*] – נֵיעוֹר: This might be a derivative of a word that means to awaken [*lehitorer*], as the nullified substance is considered to have awoken, in a manner of speaking. Alternatively, it is possibly related to the idea of shaking [*hitna'arut*], as though the prohibited substance is being shaken and stirred into the mixture (see Rabbeinu Gershom Meor HaGola Ra'avad on *Avoda Zara* 73a).

Perek **III**
Daf **22** Amud **b**

לְמֵאָה חוּלִּין טְהוֹרִין, רַבִּי אֱלִיעֶזֶר אוֹמֵר: תֵּירוֹם וְתֵרָקֵב, שֶׁאֲנִי אוֹמֵר: הֵיא סְאָה שֶׁנָּפְלָה – הֵיא סְאָה שֶׁעָלְתָה.

into one hundred *se'a* of **pure, non-sacred** produce, **Rabbi Eliezer says: Let** one *se'a* **be lifted** from the mixture **and** left to **rot**[N] as impure *teruma*, **as I say: The *se'a* that fell is the *se'a* that arose?**

NOTES

Let one *se'a* be lifted and left to rot – תֵּירוֹם וְתֵרָקֵב: Technically speaking, a *se'a* of *teruma* that fell into one hundred *se'a* of non-sacred produce is automatically nullified. Nevertheless, the Sages ruled that one must remove a *se'a* from the mixture and give it to a priest, so that the latter still receives the same amount of produce. According to Rabbi Eliezer, it is considered as though the *se'a* removed from the mixture is the same *se'a* that fell in, and therefore it is treated as impure *teruma*. Although priests are usually permitted to derive benefit from impure *teruma*, the Sages decreed that one may not even derive benefit in this case, as people tend to treat a mixture of *teruma* with negligence, and consequently there is a concern that it will be eaten (see Rabbi Ovadya Bartenura on *Terumot* 2:2).

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HALAKHA

Let the *se'a* of *teruma* arise – תַּעֲלֶה: If a *se'a* of ritually impure *teruma* falls into one hundred *se'a* of non-sacred produce, a *se'a* is removed from the mixture and is either eaten dry, baked with fruit juice, or divided into small batches. It is assumed the *se'a* that fell in is not the *se'a* that was removed (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 14:13).

וַחֲכָמִים אוֹמְרִים: תַּעֲלֶה וְתֵיאָכֵל נִיקּוּדִים אוֹ קָלָיוֹת, אוֹ תִּילּוּשׁ בְּמֵי פֵּירוֹת, אוֹ תִּתְחַלֵּק לְעִיסּוֹת, וּבִלְבַד שֶׁלֹּא יְהֵא בְּמָקוֹם אֶחָד כְּבֵיצָה.

And the Rabbis say: Let the *se'a* of *teruma* **arise**[NH] and be nullified by the one hundred *se'a* of non-sacred produce, and then all one hundred and one *se'a* will be considered non-sacred. Nevertheless, the mixture may not be allowed to come in contact with water, so that it does not become susceptible to ritual impurity, **and** therefore it must **be eaten dry**[N] **or roasted.**[N] **Or** alternatively, **it may be kneaded with fruit juice,**[N] which does not render a substance susceptible to impurity. **Or** alternatively, if one wants to knead it with water, **it may divided** into **small batches, provided that** there is **not an egg-bulk** of *teruma* **in a single** batch, as an egg-bulk is the minimum volume needed for food to be susceptible to contracting impurity.

וְתָנֵי עֲלָהּ: אוֹתָן חוּלִּין

And it is taught in that regard: Concerning **those** one hundred *se'a* of **non-sacred** produce,

NOTES

And the Rabbis say let it arise [*ta'aleh*] – וַחֲכָמִים אוֹמְרִים תַּעֲלֶה: Some explain that the Rabbis' choice of the word *ta'aleh* is intended to convey the same meaning as Rabbi Eliezer's use of the term: Lifted [*teirom*]. According to this explanation, the Rabbis agree that one must remove a *se'a* from the mixture, but they hold it is not considered as though it is the same impure *se'a* that fell in. Since the *se'a* is given to a priest to eat it is treated in the manner of pure *teruma*, while the remaining one hundred *se'a* are considered non-sacred (Rabbeinu Gershom Meor HaGola; *Tosefot Yom Tov*, citing *Tosafot*). By contrast, Rashi maintains that the term *ta'aleh* is used in its regular sense, i.e., the *se'a* of impure *teruma* is nullified, and, for reasons that the Gemara proceeds to explain, the entire mixture may not be allowed to come in contact with water as if the *se'a* was not nullified with regard to ritual impurity.

Dry [*nikkudim*] – נִיקּוּדִים: Some commentaries interpret this word based on a verse in Joshua (9:5), in which moldy bread is called *nikkudim* (Rashi; Rabbeinu Gershom Meor HaGola). Others contend, based on the Jerusalem Talmud, that *nikkudim* refers to small loaves of bread, each of which is smaller than an egg-bulk (Rambam). It is possible this is also the meaning of the verse in Joshua, i.e., dry, crumbled bread (Ralbag; see I Kings 14:3 and *Tosefot Yom Tov*).

And it must be eaten dry or roasted, etc. – וְתֵיאָכֵל נִיקּוּדִים אוֹ קָלָיוֹת וכו': According to the opinion that the Gemara is referring specifically to the removed *se'a*, one may not allow it to become impure because it is treated as though it is *teruma* (Rabbeinu Gershom Meor HaGola). With regard to the interpretation of Rashi, who holds the Gemara is referring to the entire mixture, it is puzzling that it is prohibited to render it susceptible to impurity, as the *se'a* of impure *teruma* has already been nullified, and therefore all one hundred and one *se'a* should be considered non-sacred produce. According to Rashi's interpretation of the Gemara on the following *amud*, the Gemara itself explains that the reasoning for this prohibition is unrelated to the status of the *teruma* itself, but is designed to avoid a violation in a future, different circumstance. Some write that were the entire mixture completely permitted, the owner might not give the priest anything at all, and the Sages instituted this prohibition in order to avoid such an outcome (Rosh, and see *Tosefot Yom Tov*).

Kneaded with fruit juice – תִּילּוּשׁ בְּמֵי פֵּירוֹת: Fruit juice, e.g., mulberry or apple juice (Rashi), does not render other substances susceptible to ritual impurity. Conversely, wine and oil are among the seven liquids that render a substance susceptible to ritual impurity.

Perek **III**
Daf **23** Amud **a**

NOTES

It is a decree lest one bring, etc. – גְּזֵירָה שֶׁמָּא יָבִיא וכו': Although Rabbi Eliezer considers the *se'a* removed from the mixture to be the *se'a* that had initially fallen in, it is regarded as such only as a stringency. Accordingly, despite the fact that this *se'a* is treated as impure *teruma*, which must be left to rot, the mixture still contains impurity which can be revived (see *Tosefot HaRash*, and *Shita Mekubbetzet*, citing *Tosafot*).

BACKGROUND

Kav – קַב: A *kav* is a unit of volume equaling one-sixth of a *se'a*. Its size in contemporary measurements is the subject of dispute among scholars, with opinions ranging from 1,200 to 2,500 cc.

רַבִּי אֱלִיעֶזֶר מַה תְּהֵא עֲלֵיהֶן – יֵאָכְלוּ נִקּוּדִין, אוֹ קָלָיוֹת, אוֹ יִלּוּשׁוּ בְּמֵי פֵּירוֹת, אוֹ תִּתְחַלֵּק לְעִיסּוֹת, וּבִלְבַד שֶׁלֹּא יְהֵא כַּבֵּיצָה בְּמָקוֹם אֶחָד. וְאָמַר עוּלָּא: מַה טַּעַם? גְּזֵירָה שֶׁמָּא יָבִיא קַב חוּלִּין טְמֵאִים מִמָּקוֹם אַחֵר, וְקַב וְעוֹד מִמִּין זֶה, סָבַר: אֵיבְטְלִינְהוּ בְּרוּבָּא; וְכֵיוָן דְּאִיכָּא הַאי מַשֶּׁהוּ – מָצָא מִין אֶת מִינוֹ וְנֵיעוֹר.

according to Rabbi Eliezer, what will be with them? Let them be eaten dry or roasted, or kneaded with fruit juice, or divided into **small batches, provided that** there is **not an egg-bulk** of volume **in a single** batch. **And Ulla says: What is the reason** that the mixture may not be allowed to come in contact with water, despite the fact that it is entirely non-sacred? It is a rabbinic **decree, lest one bring**[N] **a *kav* of non-sacred, impure** produce **from** some **other place and** take **a *kav***[B] **and** a little **more from this** mixture. Then he will **think** to himself: **I will nullify** the *kav* of impure produce **with the majority** of pure produce from the mixture. **But since there is some amount** of impure produce in the mixture, the **type** that was nullified **found its** own **type and is revived** in its impure state.

אֲמַר לֵיהּ: אִם טוּמְאָה עוֹרֶרֶת טוּמְאָה, טָהֳרָה עוֹרֶרֶת טוּמְאָה?

Abaye **said to** Rav Dimi: That proof is not conclusive. Even **if impurity revives impurity,** as in the case of *teruma* where the *kav* of produce is impure, why should it be assumed that **purity revives impurity,** as is suggested with regard to the fish brine, where the water in the pot is pure?

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אֵיתִיבֵיהּ: אֵפֶר כָּשֵׁר שֶׁנִּתְעָרֵב בְּאֵפֶר מְקֻלֶּה – הוֹלְכִין אַחַר הָרוֹב לְטַמֵּא. וְאִי רוּבָּא אֵפֶר מְקֻלֶּה הוּא – לֹא מְטַמֵּא. וְאִי אָמְרַתְּ טוּמְאָה כְּמַאן דְּאִיתֵיהּ דָּמֵי, נְהִי דִּבְמַגָּע לָא מְטַמֵּא, לְטַמֵּא בְּמַשָּׂא!

Abaye **raised an objection to** the opinion of Rabbi Yirmeya from a mishna (*Para* 9:7): If the **ashes**[B] of a red heifer, which impart ritual impurity to the priests involved in its ritual and are **fit** for sprinkling on someone impure with impurity imparted by a corpse, **became intermingled with** regular **burned ashes,**[H] **we follow the majority** in order **to** determine whether or not the mixture is **impure. And** therefore, **if** the **majority is** composed of the regular **burned ashes,** the mixture does **not impart impurity.** Abaye explains the objection: **And if you say** nullified **impurity is considered like an item that is** nevertheless present in the mixture and can be revived,[N] then **although** the mixture **does not impart impurity through** physical **contact** as it is assumed that one touches the majority, **let it impart impurity through carrying** due to the ashes of the red heifer.

הָא אִיתְּמַר עֲלָהּ, אָמַר רַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא: טָהוֹר מִלְּטַמֵּא בְּמַגָּע, אֲבָל מְטַמֵּא בְּמַשָּׂא.

Rav Dimi responded: In fact, **it was stated with regard to that** mishna that **Rabbi Yosei, son of Rabbi Ḥanina, says:** The mixture is **pure** in the sense that it does not **impart impurity through contact, but it** does **impart impurity through carrying.**

וְהָאָמַר רַב חִסְדָּא: נְבֵילָה בְּטֵילָה בִּשְׁחוּטָה, שֶׁאִי אֶפְשָׁר לִנְבֵילָה שֶׁתֵּיעָשֶׂה שְׁחוּטָה; נְהִי דִּבְמַגָּע לָא מְטַמֵּא, לְטַמֵּא בְּמַשָּׂא!

Abaye responded: **But doesn't Rav Ḥisda say:** If meat from an animal carcass, which imparts ritual impurity, was mixed with the meat of a slaughtered animal, the meat from the **carcass is nullified by** the meat of the **slaughtered animal**[H] in the event that the ritually pure meat constitutes a majority. The reason is **that it is impossible for a carcass to become a slaughtered** animal, i.e., a ritually slaughtered animal can never have the status of a carcass with regard to impurity. Abaye explains the difficulty: **Granted that it does not impart impurity through contact,** but if the impurity is considered present to some extent **let** the mixture **impart impurity through carrying.**

אֲמַר לֵיהּ: אַתּוּן בִּדְרַב חִסְדָּא מַתְנִיתוּ לָהּ, אֲנַן בִּדְרַבִּי חִיָּיא מַתְנִינַן לָהּ; תָּנֵי רַבִּי חִיָּיא: נְבֵילָה וּשְׁחוּטָה בְּטֵילוֹת זוֹ בְּזוֹ; וְאִיתְּמַר עֲלָהּ, אָמַר רַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא: טָהוֹר מִלְּטַמֵּא בְּמַגָּע, אֲבָל מְטַמֵּא בְּמַשָּׂא.

Rav Dimi **said to** Abaye: **You learned** the mishna **according to** the interpretation of **Rav Ḥisda,** but **we learned it according to** the interpretation of **Rabbi Ḥiyya,** as **Rabbi Ḥiyya teaches:** With regard to meat from **an animal carcass and** meat from **a slaughtered** animal, **one nullifies the other,** depending on the majority. **And it was stated with regard to this** ruling that **Rabbi Yosei, son of Rabbi Ḥanina, says:** If the majority is from a slaughtered animal the mixture is **pure** in the sense that it does not **impart impurity through contact, but it** does **impart impurity through carrying.**

וְהָא דְּתָנֵן, רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: בְּהֵמָה גַּסָּה שֶׁשָּׁפְעָה חֲרָרַת דָּם – הֲרֵי זוֹ תִּקָּבֵר, וְנִפְטֶרֶת מִן הַבְּכוֹרָה; וְתָנֵי רַבִּי חִיָּיא: אֵינָהּ מְטַמְּאָה לֹא בְּמַגָּע וְלֹא בְּמַשָּׂא, אַמַּאי? דְּנְהִי בְּמַגָּע לָא מְטַמֵּא, תְּטַמֵּא בְּמַשָּׂא! אִישְׁתִּיק.

Abaye raised another difficulty: **And that which we learned** in our mishna contradicts your opinion, as **Rabbi Eliezer ben Yaakov says:** In the case of **a large animal that expelled a mass of** congealed **blood, that** mass **must be buried, and** the animal **is exempt from** having any future offspring counted **a firstborn. And Rabbi Ḥiyya teaches** with regard to this ruling: That mass **does not impart** ritual **impurity,** neither **through** physical **contact nor through carrying.** But **why?** If Rav Dimi is correct, then **granted it does not impart impurity through contact,** but **let it** nevertheless **impart impurity through carrying.** Rav Dimi **was silent** in response.

HALAKHA

Became intermingled with regular burned ashes – שְׁנִתְעָרֵב בְּאֵפֶר מְקֻלֶּה: If the ashes of a red heifer became mixed with regular ashes, and the heifer's ashes constitute the majority of the mixture, it imparts ritual impurity through contact and carrying. If the regular ashes are the majority, the mixture imparts ritual impurity through carrying alone (Rambam *Sefer Tahara*, *Hilkhot Para Aduma* 15:4).

The meat from the carcass is nullified by the meat of the slaughtered animal – נְבֵילָה בְּטֵילָה בִּשְׁחוּטָה: If meat from an animal carcass became mixed with the meat of a ritually slaughtered animal and the meat of the slaughtered animal constitutes the majority, the mixture imparts impurity through carrying alone. This is in accordance with the opinion of Rav Ḥisda and Rabbi Yosei, son of Rabbi Ḥanina, as explained by Rashi (Rambam *Sefer Tahara*, *Hilkhot She'ar Avot HaTumot* 1:17).

NOTES

And if you say nullified impurity is considered like an item that is present and can be revived – וְאִי אָמְרַתְּ טוּמְאָה כְּמַאן דְּאִיתֵיהּ דָּמֵי: At first glance, Abaye's challenge is difficult even according to his own opinion, since in the case of the *teruma* he too maintains that nullified impurity is nevertheless present. Apparently, Abaye holds that nullified impurity is considered completely nonexistent in a mixture, but it can be revived if it comes in contact with another impure substance. By contrast, in the case of the fish brine, the suggestion was that the impurity of the mixture of brine and water renders the water in the pot impure, which indicates that the impurity is not merely being revived but has been present all along. It is this notion that Abaye challenges here (*Tosafot Ḥitzoniyyot*; see *Reshit Bikkurim*).

BACKGROUND

Ashes – אֵפֶר: In order to eliminate the ritual impurity imparted by a human corpse, purification is achieved by means of water mixed with the ashes of a red heifer (see Numbers, chapter 19). This heifer must be entirely red, including its hairs, may not have any blemishes, and must not have been used for any labor. The red heifer was slaughtered on the Mount of Olives outside Jerusalem, and its blood was sprinkled seven times opposite the entrance of the Temple. Its carcass was then burned on a special pyre, to which cedar wood, hyssop, and crimson wool were added. The ashes from this pyre were subsequently gathered and used for the purification ritual. All the priests involved in sacrificing the red heifer became ritually impure until the evening. The red heifer can be burned by any priest, but this was customarily performed by the High Priest.



Burning of the red heifer

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דִּלְמָא וַדַּאי שָׁאנֵי הָכָא דְּהָוְיָא לָהּ טוּמְאָה סְרוּחָה! הָנְיָחָא לְבַר פַּדָּא, דְּאָמַר: טוּמְאָה חֲמוּרָה עַד לַגֵּר, וְטוּמְאָה קַלָּה עַד לַכֶּלֶב – הָא לָא חַזְיָא לַגֵּר. אֶלָּא לְרַבִּי יוֹחָנָן, דְּאָמַר:

The Gemara asks: Why was Rav Dimi silent? **Perhaps** the *halakha* **is different here, as it is decayed impurity,** since an animal carcass that has rotted does not impart impurity at all. The Gemara comments: **This works out well according to** the opinion of **bar Padda, who says:** An item with **severe** ritual **impurity,** such as that of a nonviable newborn, imparts impurity to substances **until** it is rotted to the degree that it is no longer fit to be consumed **by a gentile** who observes certain mitzvot [*ger toshav*], who is permitted to consume it; **but** an item with **light impurity,** which transmits impurity only by contact, imparts impurity to substances **until** it is no longer fit to be eaten **by a dog.**[N] And as **this** congealed mass is **not fit** to be eaten **by a *ger toshav*** it does not impart impurity. **But according to Rabbi Yoḥanan, who says:**

NOTES

Light impurity imparts impurity until it is no longer fit to be eaten by a dog – טוּמְאָה קַלָּה עַד לַכֶּלֶב: Apparently, Rashi maintains that mild impurity refers to impurity that is transmitted through physical contact but not by carrying, whereas severe impurity is transmitted by both contact and carrying. Accordingly, an item no longer fit to be eaten by a person but still fit to be eaten by a dog imparts impurity by contact but not by carrying. *Tosafot* claim that if a piece of meat is classified as the meat of an unslaughtered carcass, there are no grounds for distinguishing between transmission of impurity through direct contact and transmission of impurity through carrying. Therefore, they explain that severe impurity is the level of impurity of an unslaughtered carcass, which imparts impurity both through contact and by carrying. According to bar Padda, it imparts impurity provided it is fit to be eaten by a dog. Light impurity refers to the impurity of food that has come in contact with a source of impurity. Such a food item imparts ritual impurity only to food, not to people and vessels, and only by contact, not through carrying. According to bar Padda, such a food item ceases to impart impurity once it is no longer fit to be eaten by humans.

Perek **III**
Daf **23** Amud **b**

HALAKHA

Both this one and that one impart impurity until they are no longer fit to be eaten by a dog – אַחַת זוֹ וְאַחַת זוֹ עַד לַכֶּלֶב: The carcass of an unslaughtered animal remains ritually impure until it is no longer fit to be eaten by a dog, in accordance with the opinion of Rabbi Yoḥanan (Rambam *Sefer Tahara*, *Hilkhot She'ar Avot HaTumot* 1:13).

אַחַת זוֹ וְאַחַת זוֹ עַד לַכֶּלֶב – הָא חַזְיָא לַכֶּלֶב! קַשְׁיָא.

Both **this one and that one,** i.e., items of both forms of impurity, impart impurity **until** they are no longer fit to be eaten **by a dog,**[H] it poses a difficulty to the opinion of Rabbi Yirmeya, as **this** mass **is fit for a dog.** The Gemara concludes: Indeed, it is **difficult.**

גּוּפָא, בַּר פַּדָּא אָמַר: טוּמְאָה חֲמוּרָה – עַד לַגֵּר, וְטוּמְאָה קַלָּה – עַד לַכֶּלֶב. וְרַבִּי יוֹחָנָן אָמַר: אַחַת זוֹ וְאַחַת זוֹ עַד לַכֶּלֶב. מַאי טַעְמָא דְּבַר פַּדָּא? דִּכְתִיב: ״לֹא תֹאכְלוּ כָּל נְבֵלָה לַגֵּר״ וגו׳, הָרְאוּיָה לַגֵּר – קְרוּיָה נְבֵילָה, וְשֶׁאֵינָהּ רְאוּיָה לַגֵּר – אֵינָהּ קְרוּיָה נְבֵילָה.

The Gemara discusses **the** matter **itself. Bar Padda says:** An item with **severe** ritual **impurity** imparts impurity to substances **until** it is no longer fit to be eaten **by a *ger toshav*, but** an item with **light impurity** imparts impurity to substances **until** it is no longer fit to be eaten **by a dog. And Rabbi Yoḥanan says:** Both **this one and that one** impart impurity **until** they are no longer fit to be eaten **by a dog.** The Gemara asks: **What is the reason for** the ruling of **bar Padda? As it is written: "You shall not eat of any animal carcass;**[N] you may give it **to the *ger*** who is within your gates" (Deuteronomy 14:21). Bar Padda understands from this verse that an item which is **fit for a *ger toshav* is called an animal carcass, and that which is not fit for a *ger toshav* is not called an animal carcass.**

NOTES

As it is written, you shall not eat of any animal carcass, etc. – דִּכְתִיב לֹא תֹאכְלוּ כָּל נְבֵלָה וכו׳: The basic *halakha* of the impurity of an animal carcass appears in the verse: "And if any animal, of which you may eat, die, he that touches its carcass shall be impure until the evening" (Leviticus 11:39), and the details of this matter are derived from the verse in Deuteronomy cited here. Some suggest the dispute between Rabbi Yoḥanan and bar Padda is based on different interpretations of the verse in Leviticus. Rabbi Yoḥanan holds that the verse in Deuteronomy corresponds to the first part of the verse in Leviticus: "And if any animal, of which you may eat, die," and therefore the halakhic status of an animal carcass depends on whether it was fit to be eaten by a gentile at the time of its death. Bar Padda maintains that the verse in Deuteronomy corresponds to the second part of the verse: "He who touches its carcass." Accordingly, the carcass must be fit for consumption at the time of physical contact in order for it to impart ritual impurity.

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וְאִידָךְ: לְמַעוּטֵי הֵיכָא דְּהִסְרִיחָה מֵעִיקָּרָא. וְאִידָךְ: הִסְרִיחָה מֵעִיקָּרָא לָא צְרִיכָא קְרָא לְמַעוּטֵי, עִפְּרָא בְּעָלְמָא הוּא.

The Gemara asks: **And** with regard to **the other** Sage, Rabbi Yoḥanan, how does he interpret that verse? He maintains that it serves **to exclude** a carcass **that was decayed from the outset,**[H] e.g., if the flesh started to decompose while the animal was still alive, due to severe injury. But if the carcass was initially edible and later decayed, it continues to impart ritual impurity provided it is fit for a dog. The Gemara asks: **And** with regard to **the other** Sage, bar Padda, how does he respond to this claim? **A verse is not necessary to exclude** such a case where the carcass **was decayed from the outset,**[N] as **it is merely** like **dust** and obviously does not impart impurity.

תְּנַן, רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: בְּהֵמָה גַּסָּה שֶׁשָּׁפְעָה חֲרֶרֶת דָּם – הֲרֵי זוֹ תִּקָּבֵר, וְנִפְטֶרֶת מִן הַבְּכוֹרָה; וְתָנֵי רַבִּי חִיָּיא: אֵינָהּ מְטַמְּאָה לֹא בְּמַגָּע וְלֹא בְּמַשָּׂא; וְאָמַר רַבִּי יוֹחָנָן: מְשׂוּם בִּיטּוּל בְּרוֹב נָגְעוּ בָּהּ.

We learned in our mishna that **Rabbi Eliezer ben Ya'akov says:** In the case of **a large animal that expelled a mass of** congealed **blood, that** mass **must be buried, and** the animal **is exempt from** having any future offspring counted a **firstborn. And Rabbi Ḥiyya teaches:** That mass of congealed blood **does not impart** ritual **impurity, neither through** physical **contact nor through carrying. And Rabbi Yoḥanan says:** It is **due to** the halakhic **nullification** of a forbidden substance **in a majority** of permitted substances that the Sages **touched upon it,** in order to exclude it from impurity through contact or carrying.

מַאי אִירְיָא מְשׂוּם בִּיטּוּל בְּרוֹב? תֵּיפּוֹק לִי דְּלָא אִיתְחֲזִי כְּלָל! הָא נַמִּי אִיתְחֲזִי מֵעִיקָּרָא אַגַּב אִימֵּיהּ.

The Gemara asks: **Why** did Rabbi Yoḥanan say this *halakha* is **due specifically** to the **nullification** of a substance in a mixture **by** the **majority** of the mixture? Let one **derive** the *halakha* from the fact **that** the mass **is not fit** for consumption **at all,** and it never was. The Gemara explains: **This too** was **initially fit by virtue of its mother,** i.e., if one had slaughtered the mother before the embryo was discharged it would have been edible as part of the mother.

תְּנַן הָתָם, רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: צִיר טָהוֹר שֶׁנָּפַל לְתוֹכוֹ מַיִם כָּל שֶׁהוּא – טָמֵא. אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ, זֹאת אוֹמֶרֶת: נֶחְשְׁדוּ עַמֵּי הָאָרֶץ לְעָרֵב מֻחֲצָה בְּצִיר. וְלָמָּה לִי מֻחֲצָה? אֲפִילּוּ בָּצִיר מִמֻּחֲצָה נַמִּי, וְתָנֵי מַשֶּׁהוּ – הֲוָה לֵיהּ פַּלְגָּא, וּפַלְגָּא לָא בָּטֵיל!

We learned in a mishna **elsewhere** (*Makhshirin* 6:3) that **Rabbi Eliezer ben Yaakov says: Ritually pure brine,** taken from an *am ha'aretz*, **into which any amount** of **water fell** is rendered **impure.**[N] **Rav Naḥman says** that **Rabba bar Avuh says: That is to say** that ***amei ha'aretz* are suspected of mixing half** a portion of water **in the brine,** which means that when the additional water falls in, the nullified impurity in the brine is revived by it and renders the entire mixture impure. The Gemara asks: **But why do I** need to say they are suspected of mixing precisely **half** a portion of water? **Even** if they mix in **less than half,** the brine will **also** be rendered impure upon contact with the added water, as **that** small **amount** combined with slightly less than half a portion of water **constitutes half** the mixture, **and half** a mixture **is not nullified** by the other half.

אֵימָא: "עַד מֻחֲצָה". אִיבָּעֵית אֵימָא: טוּמְאַת עַם הָאָרֶץ – דְּרַבָּנַן, טוּמְאַת מַשְׁקִין – דְּרַבָּנַן, בְּרוּבָּא – גָּזְרוּ רַבָּנַן, בְּפַלְגָּא וּפַלְגָּא – לָא גָּזְרוּ בָּהּ רַבָּנַן.

The Gemara answers: **Say** instead that an *am ha'aretz* is suspected of mixing in water **until** it constitutes slightly less than **half** the mixture. **And if you wish, say** instead: **The impurity** of foods belonging to an ***am ha'aretz*** applies **by rabbinic law** and **the impurity of liquids** also applies **by rabbinic law.**[N] Accordingly, the impurity of the brine in this case is due to two separate rabbinic decrees. **Where the majority** is water **the Sages decreed** the brine is impure, but in a case **where half** the mixture is pure fish brine **and half** is water **the Sages did not decree** that the brine is impure.

HALAKHA

A carcass that was decayed from the outset – דְּהִסְרִיחָה מֵעִיקָּרָא: Any food that becomes revolting and inedible to humans is not susceptible to ritual impurity. The meat of an unslaughtered animal carcass that was decayed from the outset is pure, as the verse states: "You may give it to the *ger* who is within your gates," from which it is derived that the meat must be edible initially (Rambam *Sefer Tahara*, *Hilkhot She'ar Avot HaTumot* 1:14 and *Hilkhot Tumat Okhalin* 2:18).

NOTES

A verse is not necessary to exclude where the carcass was decayed from the outset – הִסְרִיחָה מֵעִיקָּרָא לָא צְרִיכָא קְרָא לְמַעוּטֵי: As opposed to the opinion of bar Padda, Rabbi Yoḥanan holds that even if a substance is not forbidden for consumption it could still impart ritual impurity, as is the *halakha* with regard to the impurity of creeping animals and bodily discharges (*Tosafot*).

Ritually pure brine taken from an *am ha'aretz* into which any amount of water fell is rendered impure – צִיר טָהוֹר שֶׁנָּפַל לְתוֹכוֹ מַיִם כָּל שֶׁהוּא טָמֵא: Rashi notes that the precise meaning of this mishna depends on the opinions in the dispute cited on the previous *amud* with regard to the status of nullified impurity. According to Abaye it must be assumed that the water that fell into the brine was considered ritually impure. According to Rav Dimi and Rabbi Yirmeya, even pure water that fell in would render the brine impure.

The impurity of liquids also applies by rabbinic law – טוּמְאַת מַשְׁקִין דְּרַבָּנַן: There is a dispute among the Sages concerning this matter in various places, primarily in tractate *Pesaḥim* (14b). According to some, liquids render other substances susceptible to impurity but are not themselves impure by Torah law. Others hold that liquids are impure by Torah law, but they do not transmit their impurity to other items by Torah law. The *halakha* is in accordance with the latter opinion. Since the case of a mixture of fish brine and water involves water rendering other water impure, all agree that the impurity is by rabbinic law (see *Ḥazon Ish*).

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HALAKHA

One who purchases a nursing animal from a gentile – הַלּוֹקֵחַ בְּהֵמָה מֵעַכּוּ"ם מִן הַגּוֹי: One who purchases a nursing female animal from a gentile does not need to be concerned that it is nursing the offspring of another animal, in accordance with the opinion of Rabban Shimon ben Gamliel (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:8; *Shulḥan Arukh*, *Yoreh De'a* 316:2).

One who enters amid his flock, etc. – נִכְנַס לְתוֹךְ עֶדְרוֹ וכו': One who enters the pen and sees animals nursing may assume that each animal is nursing its own offspring (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:4; *Shulḥan Arukh*, *Yoreh De'a* 316:5).

BACKGROUND

Nursing the offspring of another animal – בְּנָה שֶׁל אַחֶרֶת: With the exception of goats, only animals that have given birth or are close to giving birth produce milk. Additionally, the majority of animals nurse only their own offspring, which the mother identifies by smell. On rare occasions, a newborn animal nurses from a different mother.

PERSONALITIES

Rabbi Eliezer ben Ya'akov – רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב: There were at least two *tanna'im* of this name, one who lived during the period of the destruction of the Temple and one who was among the disciples of Rabbi Akiva. Apparently, the saying: The teaching of Rabbi Eliezer ben Ya'akov measures only a *kav* but is clean and accurate, was stated in reference to the earlier Sage. He saw the Temple and transmitted many *halakhot* with regard to the details of its structure. Tractate *Middot*, which deals with the structure of the Temple, is attributed to him.

מתני' רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: הַלּוֹקֵחַ בְּהֵמָה מֵעַכּוּ"ם מִן הַגּוֹי – אֵין חוֹשְׁשִׁין שֶׁמָּא בְּנָה שֶׁל אַחֶרֶת הָיָה. נִכְנַס לְתוֹךְ עֶדְרוֹ וְרָאָה אֶת הַמַּבְכִּירוֹת מְנִיקוֹת וְשֶׁאֵינָן מַבְכִּירוֹת מְנִיקוֹת – אֵין חוֹשְׁשִׁין שֶׁמָּא בְּנָה שֶׁל זוֹ בָּא לוֹ אֵצֶל זוֹ, אוֹ שֶׁמָּא בְּנָה שֶׁל זוֹ בָּא לוֹ אֵצֶל זוֹ.

MISHNA **Rabban Shimon ben Gamliel says:** In the case of **one who purchases a nursing** female **animal from a gentile,**[H] **he** does **not** need **to be concerned,** i.e., take into account the possibility, that **perhaps it was** nursing **the offspring of another** animal.[BN] Rather, the buyer may assume it had previously given birth. In the case of one who **enters amid his flock**[H] **and sees** mother animals **that gave birth for the first time** that were **nursing, and** also sees mother animals **that gave birth not for the first time** that were also **nursing, he** does **not** need **to be concerned** that **perhaps the offspring of this** animal **came to that** animal to be nursed, or that **perhaps the offspring of that** animal **came to this** animal to be nursed.

גמ' אָמַר רַב נַחְמָן מִשְּׁמֵיהּ דְּרַב: הִלְכְתָא בְּכוּלֵּיהּ פִּירְקִין, בַּר מִפְּלוּגְתָּא. אֲמַר רַב שֵׁשֶׁת: אָמִינָא, כִּי נָיֵים וְשָׁכִיב רַב אֲמַר לְהָא שְׁמַעֲתָא; אַהַיְיא? אִילֵימָא אַרִישָׁא – מִפְּלִיגֵי רַבִּי יִשְׁמָעֵאל וְרַבִּי עֲקִיבָא!

GEMARA **Rav Naḥman said in the name of Rav: The *halakha*** is in accordance with the opinion of the anonymous *tanna* in the *mishnayot* **throughout the whole chapter, except** where there is **a difference** of opinion recorded in that mishna. **Rav Sheshet says: I say Rav was dozing or sleeping when he said this *halakha*.** After all, **to which** mishna is this referring? **If we say** it is referring **to the first** mishna in the chapter (19b) then his ruling does not apply, as **Rabbi Yishmael and Rabbi Akiva disagree** in that mishna.

אֶלָּא אַדְּרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב – מִשְּׁנַת רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב קַב וְנָקִי!

Rather, you will say it is referring **to** the ruling **of Rabbi Eliezer ben Yaakov** (21b). This is also problematic, since it is already known that the *halakha* is in accordance with his opinion, as there is an established principle that **the teaching of Rabbi Eliezer ben Ya'akov**[P] measures only **a *kav* but is clean** and accurate,[N] and therefore the *halakha* is in accordance with his opinions.

אֶלָּא אַדְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל – מִפְּלַג פְּלִיג בְּבָרַיְיתָא! אֶלָּא אַדְּרַבִּי יוֹסֵי בֶּן הַמְּשׁוּלָּם – הָא אֲמַר רַב חֲדָא זִימְנָא, דַּאֲמַר רַב: הִלְכְתָא כְּרַבִּי יוֹסֵי בֶּן הַמְּשׁוּלָּם! אֶלָּא אַשְּׂעָר בַּעַל מוּם – מִיפְּלַג פְּלִיגִי עֲקִבְיָא בֶּן מַהֲלַלְאֵל וְרַבָּנַן!

Rather, you will say it is referring **to** the statement of **Rabban Shimon ben Gamliel** in the mishna here. That is also difficult, as there is a *tanna* who **disagrees, in the *baraita*** cited on 24a. **Rather,** you will say that it is referring **to** the statement **of Rabbi Yosei ben HaMeshullam** in the next mishna (24b). But **didn't Rav** already **say** this **one time? As Rav said: The *halakha*** is **in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam. Rather,** you will say that it is referring to the matter **of the hair of a blemished** firstborn discussed in the mishna on 25b. But that case too is subject to a dispute, as **Akavya ben Mahalalel and the Rabbis disagree** in that mishna.

לְעוֹלָם אַדְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל, וְהָא קָא מַשְׁמַע לָן: דְּבָרַיְיתָא לָא פְּלוּגְתָּא הִיא.

The Gemara answers: **Actually,** Rav's statement is referring **to** the statement **of Rabban Shimon ben Gamliel** here, **and** Rav **teaches us this: That** if a mishna is contradicted by a dissenting opinion cited in **a *baraita*** it **is not** considered **a dispute,**[N] and the *halakha* therefore follows the opinion of Rabban Shimon ben Gamliel.

NOTES

He does not need to be concerned that perhaps it was nursing the offspring of another animal – אֵין חוֹשְׁשִׁין שֶׁמָּא בְּנָה שֶׁל אַחֶרֶת הָיָה: Some commentaries infer from here that an animal that produces milk but has not yet begun nursing is not exempt from having its offspring counted a firstborn on that basis alone, as there exists a minority of animals that produce milk before giving birth (*Tosafot* on 20b, citing Rabbeinu Tam). Although it is established that Rabban Shimon ben Gamliel is generally not concerned with the minority, here it is different because there is a preexisting assumption that the animal has not yet given birth, as this is its default status. Alternatively, the animals that produce milk before giving birth constitute a significant minority, which is why Rabban Shimon ben Gamliel is concerned with the minority in this case (Rid).

The teaching of Rabbi Eliezer ben Ya'akov measures only a *kav* but is clean and accurate – מִשְּׁנַת רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב קַב וְנָקִי: The *kav* is simply a token example of a small measurement of flour or produce. Rashi explains that this statement is referring to the fact that although Rabbi Eliezer ben Ya'akov is cited rarely, each of his statements is considered authoritative. Others suggest Rabbi Eliezer ben Ya'akov would issue his statements concisely and with precision (Rav Sherira Gaon). In any case, this observation was issued in the times of the *tanna'im* (see *Yevamot* 49b and *Gittin* 67a), and therefore the *halakha* is generally in accordance with the opinion of Rabbi Eliezer ben Ya'akov (see *Eiruvin* 62b). Some say the *halakha* follows his opinion in 102 cases, which is the numerical value of the word *kav* (Rosh 4:2, citing Rabbeinu Ḥananel). There was uncertainty among the Sages as to how to implement this principle in practice (see *Eiruvin* 62b and *Encyclopedia Talmudit*).

A dissenting opinion cited in a *baraita* is not considered a dispute – בָּרַיְיתָא לָא פְּלוּגְתָּא הִיא: Rashi and *Tosafot* explain there is a principle that any opinion cited in a *baraita* that differs from an individual opinion in the mishna is not of halakhic import. Others maintain this was stated only with regard to this particular *baraita*, the text of which Rav judges to have been corrupted (*Sefat Emet*). The commentaries further point out that unlike Rabbi Yoḥanan, Rav clearly does not accept the principle that the *halakha* follows the opinion of Rabban Shimon ben Gamliel wherever he is quoted in the Mishna (*Shai LaMora*).

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וְכֵיוָן דַּאֲמַר רַב: הִלְכְתָא בְּכוּלֵּיהּ פִּירְקִין בַּר מִפְּלוּגְתָּא,

The Gemara asks: **But once Rav said the *halakha*** is in accordance with the opinion of the anonymous *tanna* in the *mishnayot* **throughout the whole chapter except** where there is **a difference** of opinion,

Perek **III**
Daf **24** Amud **a**

הֲלָכָה כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם לָמָּה לִי?

why do I need him to state that the ***halakha*** is **in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam?**

אִי אֲמַר הִלְכְתָא דְּכוּלֵּיהּ פִּירְקִין, וְלָא אֲמַר הִלְכְתָא כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם, הֲוָה אָמִינָא: אַדְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם קָאֵי, וּמַאי ״בְּכוּלֵּיהּ פִּירְקִין״ – דְּרַבִּי יוֹסֵי תַּרְתֵּי אָמַר, וּפְלוּגְתָּא דְּבָרַיְיתָא פְּלוּגְתָּא הִיא.

The Gemara explains: **Had** Rav **said** only that **the *halakha*** is in accordance with the opinion of the anonymous *tanna* in the *mishnayot* **throughout the whole chapter, but did not say** explicitly that **the *halakha*** is **in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam, I would say:** Rav **is referring** specifically **to** the opinion of **Rabbi Yosei ben HaMeshullam. And what** is the meaning of the phrase: **Throughout the whole chapter,** which indicates he is speaking of more than one case? This is referring to the fact that **Rabbi Yosei said two** separate statements in the chapter. **And** this would indicate with regard to Rav's statement that if a mishna is contradicted by **a dissenting** opinion cited in **a *baraita*,** that **is** considered **a dispute.**

אַשְׁמְעִינַן הֲלָכָה כְּרַבִּי יוֹסֵי – לְאַשְׁמוּעִינַן דְּאַדְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל קָאֵי, וּפְלוּגְתָּא דְּבָרַיְיתָא לָאו פְּלוּגְתָּא הִיא.

Rav **taught** that the ***halakha*** is **in accordance with** the opinion of **Rabbi Yosei** in order **to teach us that** his statement with regard to the whole chapter **is referring** to the opinion **of Rabban Shimon ben Gamliel, and** with regard to Rav's statement, if a mishna is contradicted by **a dissenting** opinion cited in **a *baraita*,** that **is not** considered **a dispute.**

מַאי בָּרַיְיתָא? דְּתַנְיָא: הַלּוֹקֵחַ בְּהֵמָה מִנִּיקָּה מִן הַגּוֹי – הַבָּא אַחֲרָיו בְּכוֹר מִסָּפֵק, מִפְּנֵי שֶׁמְּרַחֶמֶת אַף עַל פִּי שֶׁאֵינָהּ יוֹלֶדֶת. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: דָּבָר בְּחֶזְקָתוֹ.

What is the ***baraita*** mentioned previously? **As it is taught** in a *baraita*: In the case of **one who purchases a nursing** female **animal from a gentile,** the young **that** is born **after** the offspring currently being nursed is treated as **a firstborn due to** the **uncertainty** whether it is the animal's offspring, **because** an animal might **be merciful** and nurse another animal **even though it has not given birth** at all. **Rabban Shimon ben Gamliel says:** The **matter** stands **in its presumptive status,** i.e., the nursing animal is assumed to be the mother of the nursing offspring.

וְכֵן הָיָה רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: הַנִּכְנָס לְתוֹךְ עֶדְרוֹ בַּלַּיְלָה, וְרָאָה כְּעֶשֶׂר כַּחֲמֵשׁ עֶשְׂרֵה מַבְכִּירוֹת וְשֶׁאֵינָן מַבְכִּירוֹת יוֹלְדוֹת, לְמָחָר הִשְׁכִּים וּמָצָא זְכָרִים תְּלוּיוֹת בְּשֶׁאֵין מַבְכִּירוֹת, וּנְקֵבוֹת תְּלוּיוֹת בְּמַבְכִּירוֹת – אֵינוֹ חוֹשֵׁשׁ שֶׁמָּא בְּנָהּ שֶׁל זוֹ בָּא לוֹ אֵצֶל זוֹ.

The *baraita* continues: **And similarly, Rabban Shimon ben Gamliel would say: One who enters amid his flock at night and sees about ten** or **about fifteen** animals, some of **whose offspring is a firstborn and** others **whose offspring is not a firstborn,** and all were **giving birth,** and **on the next day he arose and found** that the **male** young **were nursing from** the mothers **whose offspring is not a firstborn, and** the **female** young **were nursing from** the mothers **whose offspring is a firstborn, he does not need to be concerned** that **perhaps the young of this** mother **came to** nurse from **that** mother. Rather, he may assume that each animal is nursing its own offspring.

אִיבַּעְיָא לְהוּ: ״דָּבָר בְּחֶזְקָתוֹ״ דְּקָאָמַר רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל – דְּאֵינָהּ מְרַחֶמֶת אֶלָּא אִם כֵּן יוֹלֶדֶת; הָא הֵיכָא דְּאוֹלִיד – חָיְישִׁינַן לְרַחוּמֵי. אוֹ דִּלְמָא: דִּידָהּ – מְרַחֶמָא, דְּלָא דִּידָהּ – לָא מְרַחֶמָא לֵיהּ?

A dilemma was raised before the Sages: What is the precise meaning of the phrase: The **matter** stands **in its presumptive status, which Rabban Shimon ben Gamliel stated?** Does this mean **that** an animal **does not show mercy unless it has given birth,** and **consequently,** in a case **where** the animal has **given birth we are concerned for** the possibility that it might **be merciful** and nurse an offspring that is not its own? **Or perhaps** it means that an animal might **be merciful** only toward **its own** offspring, but **it does not** show **mercy** to an animal **that is not its own?**

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HALAKHA

Whether one is flogged for it due to the prohibition against slaughtering a mother and its offspring – מִלְּקָא עֲלָה מִשּׁוּם אוֹתוֹ וְאֶת בְּנוֹ: A young animal that trails after a mother animal is assumed to be its child, and therefore it is prohibited to slaughter both in the same day. Nevertheless, one who does so is not flogged, because no final conclusion was reached with regard to whether or not an animal displays mercy toward offspring that are not its own (*Shulḥan Arukh*, *Yoreh De'a* 16:5, and see *Shakh* and *Beur HaGra* there).

לְמַאי נָפְקָא מִינָּה – לְמִלְקָא עֲלָה מִשּׁוּם ״אוֹתוֹ וְאֶת בְּנוֹ״; אִי אָמְרַתְּ: דִּידָהּ מְרַחֲמָא, דְּלָא דִּידָהּ לָא מְרַחֲמָא – לָקֵי, וְאִי אָמְרַתְּ: דְּלָא דִּידָהּ נַמִּי מְרַחֲמָא – לָא לָקֵי.

The Gemara asks: **What difference is** there in practice based on this distinction? Either way the nursing animal is assumed to have given birth and its future offspring will not be considered a firstborn. The Gemara answers that there is a difference **with regard to** whether or not one **is flogged for** slaughtering **it due to** violating the prohibition against slaughtering **a mother and its offspring**[H] on the same day. **If you say** an animal **is merciful** only toward **its own** offspring but **is not merciful** toward an animal **that is not its own,** then **one is flogged** if he deliberately slaughters an animal and the offspring that it is nursing. **But if you say** it **is also merciful** toward an animal **that is not its own,** then one **is not flogged** in such a case.

מַאי? תָּא שְׁמַע, רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: הַלּוֹקֵחַ בְּהֵמָה מִן הַגּוֹי – אֵינוֹ חוֹשֵׁשׁ שֶׁמָּא בְּנָהּ שֶׁל אַחֶרֶת הָיָה. מִי קָתָנֵי ״הוּא״? ״הָיָה״ קָתָנֵי; הָכִי קָאָמַר: אֵינוֹ חוֹשֵׁשׁ שֶׁמָּא בְּנָהּ שֶׁל אַחֶרֶת, אֶלָּא אִם כֵּן הָיָה לָהּ וָלָד מֵעִיקָּרָא.

The Gemara returns to its initial inquiry. **What** is the precise meaning of Rabban Shimon ben Gamliel's statement? **Come** and **hear** a proof from the mishna, as **Rabban Shimon ben Gamliel says:** In the case of **one who purchases** a nursing female **animal from a gentile, he** does **not** need **to be concerned lest** the offspring currently being nursed **was the offspring of another** animal. Evidently, Rabban Shimon ben Gamliel holds that an animal nurses only its own offspring. The Gemara rejects this proof: **Does** the mishna **teach** that one does not need to be concerned that perhaps **it is** the offspring of another animal? No, it **teaches** that one does not need to be concerned that perhaps **it was** the offspring of another animal, and **this** is what it **is saying:** Whichever way you look at it, the next offspring is not a firstborn, as **one** does **not** need **to be concerned** that **perhaps it** was **the offspring of another** animal that it is nursing, as it would not nurse **unless it** already **had an offspring initially.**

תָּא שְׁמַע: נִכְנַס בְּתוֹךְ עֶדְרוֹ וְרָאָה אֶת הַמַּבְכִּירוֹת מְנִיקוֹת, וְאֶת שֶׁאֵינָן מַבְכִּירוֹת מְנִיקוֹת – אֵינוֹ חוֹשֵׁשׁ שֶׁמָּא בְּנָהּ שֶׁל זוֹ בָּא לוֹ אֵצֶל זוֹ, אוֹ שֶׁמָּא בְּנָהּ שֶׁל זוֹ בָּא לוֹ אֵצֶל זוֹ;

The Gemara suggests: **Come** and **hear** a proof from the continuation of the mishna: In the case of one who **enters amid his flock and sees** mother animals **that gave birth for the first time** that were **nursing, and** also sees mother animals **that gave birth not for the first time** that were also **nursing, he** does **not** need **to be concerned** that **perhaps the offspring of this** animal **came to that** animal to be nursed, or that **perhaps the offspring of that** animal **came to this** animal to be nursed.

אַמַּאי? לֵיחוּשׁ דִּלְמָא רַחוּמֵי רַחֲמִים! בְּמָקוֹם דִּידָהּ – לָא שָׁבְקָא דִּידָהּ וּמְרַחֲמָא דְּלָא דִּידָהּ.

The Gemara explains the proof: But **why** not? **Let us be concerned** that **perhaps** the nursing animal **is merciful** toward an offspring that is not its own. Evidently, Rabban Shimon ben Gamliel holds that an animal nurses only its own offspring, even if it had previously given birth. The Gemara rejects this proof: Even if an animal does show mercy toward offspring that is not its own, in **a place where** it has **its own** offspring, **it does not set aside its own** offspring **and** show **mercy** toward offspring **that is not its own.**

תָּא שְׁמַע: דָּבָר בְּחֶזְקָתוֹ כו'; מַאי לָאו רֵישָׁא דּוּמְיָא דְּסֵיפָא? מַה סֵּיפָא – וַדַּאי דִּידָהּ, אַף רֵישָׁא – וַדַּאי דִּידָהּ!

The Gemara further suggests: **Come** and **hear** a proof from Rabban Shimon ben Gamliel's statement in the *baraita*: If one purchases a nursing animal from a gentile, the **matter** stands **in its presumptive status.** From the phrase: And similarly, in the continuation of the *baraita*, the Gemara infers: **What, is it not** so that **the first clause is similar to the latter clause? Just as** in **the latter clause** the nursing young is **certainly** considered to be the nursing animal's **own** offspring, **so too,** in **the first clause** it is **certainly** considered to be the nursing animal's **own** offspring, despite the fact that the animal mother might have given birth previously.

מִידֵּי אִירְיָא? הַאי כִּדְאִיתָא, וְהַאי כִּדְאִיתָא. וּמַאי ״וְכֵן״? אַפְּטוּרָה דִּבְכוֹרָה.

The Gemara rejects this suggestion: **Are the cases comparable? This** first clause of the *baraita* stands **as it is and that** second clause of the *baraita* stands **as it is,** i.e., they are referring to different cases. In the second clause, where all the offspring are standing before their mothers, it is certain that each mother will nurse only its own child. Conversely, in the first clause it is uncertain whether that child is its own. **But** if so, what is the meaning of the phrase: **And similarly?** It means both clauses state that the nursing animal **is exempt from** having its future offspring counted **a firstborn,** since even if that offspring is not the mother's, the mother would not nurse it unless it had previously given birth.

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אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: רָאָה חֲזִיר שֶׁכָּרוּךְ אַחַר רָחֵל – פְּטוּרָה מִן הַבְּכוֹרָה, וְאָסוּר בַּאֲכִילָה ״עַד יָבֹא וְיוֹרֶה צֶדֶק לָכֶם״.

The Gemara analyzes a similar case. **Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says:** If one **saw** a young animal resembling **a pig that** was **trailing after a ewe,**[H] the ewe is **exempt from** having its future offspring counted **a firstborn. And** the pig-like animal **is forbidden for consumption**[H] **"until he comes and instructs righteousness to you"** (Hosea 10:12), i.e., until Elijah the prophet arrives and determines the *halakha*.

פָּטוּר מִן הַבְּכוֹרָה כְּמַאן – כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל, וְאָסוּר בַּאֲכִילָה – כְּרַבָּנַן!

The Gemara raises a difficulty with regard to Rabba bar bar Ḥana's statement: On the one hand, the ewe is **exempt from** having its future offspring counted **a firstborn,** which is **in accordance with** the opinion of **Rabban Shimon ben Gamliel** that an animal that nurses from another is presumed to be its offspring. **But** on the other hand, the pig-like animal **is forbidden for consumption,** which is **in accordance with** the opinion of **the Rabbis** that an animal might nurse the young of another.

וְתוּ, אִי כְּרַבָּנַן, מַאי ״עַד יָבֹא וְיוֹרֶה צֶדֶק לָכֶם״? ״עַד שֶׁיִּוָּדַע לְךָ דָּבָר״ מִיבָּעֵי לֵיהּ!

And furthermore, if the *halakha* is **in accordance with** the opinion of **the Rabbis,** and there is a concern with regard to the identity of the mother of the offspring, **what** is the reason for citing the verse: **"Until he comes and instructs righteousness to you"?** By citing it, the *baraita* is indicating that the status of the pig-like animal is a halakhic uncertainty that can be resolved only by Elijah the prophet. Instead, **it should have** stated: **Until the matter becomes known to you,** in reference to the empirical uncertainty as to whether the pig-like animal is the offspring of the ewe.

וְכִי תֵּימָא: מְסַפְּקָא לֵיהּ אִי הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אִי כְּרַבָּנַן. אִי מְסַפְּקָא לֵיהּ – אַמַּאי פְּטוּרָה מִן הַבְּכוֹרָה? וְתוּ, מִי מְסַפְּקָא לֵיהּ? וְהָאָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: כָּל מָקוֹם שֶׁשָּׁנָה רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל בְּמִשְׁנָתֵינוּ – הֲלָכָה כְּמוֹתוֹ, חוּץ מֵעֵרֶב וְצַיָּדָן וּרְאָיָה אַחֲרוֹנָה!

And if you would say that **it is uncertain whether the *halakha* is in accordance with** the opinion of **Rabban Shimon ben Gamliel or in accordance with** the opinion of **the Rabbis,** that cannot be correct: **If** that matter **is uncertain,** then **why is** the **ewe exempt from** having its future offspring counted **a firstborn? And furthermore, is** this question of whose opinion is accepted as the *halakha* **an uncertainty** at all? **But doesn't Rabba bar bar Ḥana say** that **Rabbi Yoḥanan says: Wherever Rabban Shimon ben Gamliel taught** a *halakha* **in** the corpus of **our Mishna**[N] the ***halakha*** is **in accordance with his** opinion, **except for** the following three cases: The responsibility of the **guarantor** (see *Bava Batra* 174a), **and** the incident that occurred in the city of **Tzaidan** (see *Gittin* 74a), **and** the dispute with regard to **evidence** in the **final** disagreement[N] (see *Sanhedrin* 31a)?

HALAKHA

A pig that was trailing after a ewe – חֲזִיר שֶׁכָּרוּךְ אַחַר רָחֵל: One who purchases a lactating animal from a gentile may assume that the offspring it is nursing is its own. This is the *halakha* even if the nursing animal appears to be of a different species, in accordance with the opinion of Rabbi Yoḥanan (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:8, and see *Leḥem Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 316:2).

And the pig-like animal is forbidden for consumption – וְאָסוּר בַּאֲכִילָה: The offspring of a kosher animal is kosher even if it has the appearance of a non-kosher animal, provided that its birth was witnessed. If not, the offspring may not be eaten, even if there is circumstantial evidence indicating it was born to a kosher animal (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 1:4; *Shulḥan Arukh*, *Yoreh De'a* 79:2).

NOTES

Wherever Rabban Shimon ben Gamliel taught a *halakha* in our Mishna – כָּל מָקוֹם שֶׁשָּׁנָה רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל בְּמִשְׁנָתֵינוּ: Rabban Shimon ben Gamliel was the *Nasi*, and would often recite accepted *halakhot* (see Jerusalem Talmud, *Bava Batra* 10:8). For this reason, Rabbi Yoḥanan held that the *halakha* follows his opinion in the Mishna. There is a discussion among the early commentaries with regard to the extent to which this principle is actually applied in practice. Some maintain it applies with regard to all his statements in the Mishna (Rabbeinu Tam), while others disagree (Rif).

Except for the guarantor and Tzaidan and evidence in the final disagreement – חוּץ מֵעֵרֶב וְצַיָּדָן וּרְאָיָה אַחֲרוֹנָה: There are three cases in the Mishna where the *halakha* is not in accordance with the opinion of Rabban Shimon be Gamliel. The first case concerns whether or not a lender can collect his debt from the property of a guarantor even in a case where the debtor himself possesses property that could serve for collection of the debt. Rabban Shimon ben Gamliel maintains that the lender may not do so even if he stipulated otherwise. The incident in Tzaidan involved a divorce that was made conditional upon the woman giving the man his coat; Rabban Shimon ben Gamliel maintains that if she loses the coat she may give him its value instead. Finally, in the final dispute concerning evidence, Rabban Shimon ben Gamliel rules that if one said he does not have witnesses or evidence and he later retracts and brings witnesses or evidence, the court accepts them.

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לְעוֹלָם פְּשִׁיטָא לֵיהּ הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל, מֵיהוּ מְסַפְּקָא לֵיהּ אִי סָבַר רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל יוֹלֶדֶת מְרַחֶמֶת אוֹ אֵינָהּ מְרַחֶמֶת. אִי הָכִי, עַד דְּאַשְׁמַעִינַן חֲזִיר – לִישְׁמַעִינַן טָלֶה, וּלְמֵילְקֵי עֲלֵיהּ מִשּׁוּם ״אוֹתוֹ וְאֶת בְּנוֹ״!

The Gemara answers: **Actually,** it is **obvious to** Rabba bar bar Ḥana that the ***halakha*** is **in accordance with** the opinion of **Rabban Shimon ben Gamliel. But it is uncertain if Rabban Shimon ben Gamliel holds** that **an animal that has given birth** might **be merciful** toward offspring that is not its own, **or** if he holds that it **is not merciful** toward the offspring of another. The Gemara rejects this claim: **If that is so, instead of teaching** a case involving an animal with the appearance of **a pig,** he **should have taught** the more common case of a mother ewe nursing a baby **lamb. And** accordingly, rather than inquiring with regard to the prohibition against eating a non-kosher animal, he should have inquired as **to** whether or not one is **flogged for it due to** violating the prohibition against slaughtering **a mother and its offspring** on the same day.

חֲזִיר אִיצְטְרִיכָא לֵיהּ; דְּאִי אַשְׁמַעִינַן טָלֶה, הֲוָה אָמִינָא: אִם תִּמְצָא לוֹמַר דְּסָבַר יוֹלֶדֶת מְרַחֶמֶת – דְּמִינָּהּ, דְּלָא מִינָּהּ – לָא; אַשְׁמַעִינַן חֲזִיר דְּמִרַחֶמֶת וַאֲפִילּוּ דְּלָאו מִינָּהּ נַמִי, דְּאִיכָּא לְמֵימַר דִּלְמָא מְרַחֲמָא.

The Gemara explains: It **was necessary for** Rabba bar bar Ḥana to teach the case of **a pig, as, had he taught** a case involving **a lamb, I would say:** Even **if you say that** Rabban Shimon ben Gamliel **holds** that **an animal that has given birth** might **be merciful** toward the offspring of another, this is so only **with regard to its** own **species,** but with regard to an animal **that is not** of **its** own **species,** it would **not** show mercy and would not nurse the offspring. Therefore, Rabba bar bar Ḥana **teaches us** the case of **a pig,** to convey **that** an animal might **be merciful, and** this is **also** true **even where** the offspring **is not** of **its** own **species, as it could be said** that **perhaps** the animal was **merciful** in such a case as well.

וְהַיְינוּ דְּאָמַר רַבִּי יוֹחָנָן: בָּעֵי

And this is the meaning of **that** which Rabba bar bar Ḥana said that **Rabbi Yoḥanan said: A dilemma was raised**

Perek **III**
Daf **24** Amud **b**

LANGUAGE

The Distinguished [*beribbi*] – בְּרִיבִּי: *Beribbi* is an abridged form of the words: *Ben rabbi*, son of rabbi. In the period of the *tanna'im* it was an honorific reserved for a great Sage, regardless of his actual ancestry. Occasionally, one deserving of this title was called simply *beribbi*, without any mention of his actual name.

NOTES

With regard to the offspring's firstborn status and in accordance with the Rabbis – לִבְכוֹרָה וְאַלִּיבָּא דְּרַבָּנַן: The question of whether or not the pig-like animal is permitted for consumption applies also according to the opinion of the Rabbis. By contrast, according to the opinion of Rabban Shimon ben Gamliel, this question of whether one can eat it is the only relevant issue, as he maintains that an animal which has not given birth will not nurse another mother animal's offspring (Rabbeinu Gershom Meor HaGola).

אַחַאי בְּרִיבִּי: רָאָה חֲזִיר שֶׁרוֹוֵךְ אַחַר רָחֵל, מַהוּ? מַאי קָמִיבָּעֵיָא לֵיהּ? אֵילֵימָא לִבְכוֹרָה, וְקָמִיבָּעֵיָא לֵיהּ אִי הִלְכְתָא כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אִי הִלְכְתָא כְּרַבָּנַן – תִּיבָּעֵי לֵיהּ טָלֶה!

by **Aḥai the Distinguished** [***beribbi***]:[L] If **one saw** an animal with the appearance of **a pig that** was **trailing after a ewe, what is** the *halakha*? The Gemara asks: **What is the dilemma he is raising? If we say** he is inquiring **with regard to** the **firstborn** status of the future offspring, **and he is** therefore essentially **asking if the *halakha* is in accordance with** the opinion of **Rabban Shimon ben Gamliel or if the *halakha* is in accordance with** the opinion of **the Rabbis,** then **let the dilemma be raised** with respect to the more common case of **a lamb,** rather than the irregular case of a pig-like animal.

כִּי קָמִיבָּעֵיָא לֵיהּ לִבְכוֹרָה וְאַלִּיבָּא דְּרַבָּנַן, לַאֲכִילָה וְאַלִּיבָּא דְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל;

The Gemara answers: Actually, **when** Aḥai the Distinguished **raised the dilemma** it was with respect to the ramifications of each opinion: He inquired **with regard to** the future offspring's **firstborn** status, **and** this aspect of the dilemma was raised under the assumption that the *halakha* is **in accordance with** the opinion **of the Rabbis.**[N] He also inquired **with regard to** whether or not the pig-like animal is permitted for **consumption, and** this aspect of the dilemma was raised under the assumption that the *halakha* is **in accordance with** the opinion **of Rabban Shimon ben Gamliel.**

לִבְכוֹרָה – וַאֲפִילּוּ לְרַבָּנַן דְּאָמְרִי מְרַחֲמָא, כִּי מְרַחֲמָא – דְּמִינָּהּ, דְּלָא מִינָּהּ – לָא, אוֹ דִּלְמָא דְּלָא מִינָּהּ נַמִי מְרַחֲמָא?

The Gemara elaborates: He inquired **with regard to** the offspring's **firstborn** status, **and** this question applies **even according to** the opinion of **the Rabbis, who say** that an animal might **be merciful** toward other young animals. The Gemara explains the dilemma: One can say that **when** an animal **is merciful** this applies only toward an animal **that** is of **its** own **species,** but to a young animal **that is not** of **its** own **species** a mother animal certainly does **not** show mercy. Therefore, the fact that it nursed proves that it is its offspring. **Or perhaps** an animal might **also be merciful** toward an offspring **that is not** of **its** own **species.** If it is merciful only to its own species, the ewe is exempt from having its future offspring counted a firstborn; if its mercy extends to other species then it is not exempt.

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לַאֲבִילָה – וַאֲפִילּוּ לְרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל, אִם תְּמְצָא לוֹמַר סָבַר יוֹלֶדֶת מְרַחֶמֶת – דְּמִינָהּ, דְּלָאו מִינָהּ – לָא, אוֹ דִלְמָא דְּלָאו מִינָהּ נַמִי מְרַחֶמָא? תֵּיקוּ.

And Aḥai the Distinguished also inquired **with regard to** whether the pig-like animal is permitted for **consumption, and** this question applies **even according to** the opinion of **Rabban Shimon ben Gamliel: If you say** he **holds** that **an animal that has given birth** might **be merciful** and nurse another mother's offspring, perhaps that is so only with regard to an animal **that** is of **its** own **species,** but to an animal **that is not** of **its** own **species** it is **not** merciful, which means the pig-like animal is kosher. **Or perhaps** a mother might **also be merciful** toward an offspring **that is not** of **its** own **species,** in which case the pig-like animal might not be kosher and therefore may not be eaten. After explaining the dilemma of Aḥai the Distinguished, the Gemara concludes: The dilemma **shall stand** unresolved.

מתני׳ רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם אוֹמֵר: הַשּׁוֹחֵט אֶת הַבְּכוֹר – עוֹשֶׂה מָקוֹם בְּקוֹפִיץ מִיכָּן וּמִיכָּן וְתוֹלֵשׁ אֶת הַשֵּׂעָר, וּבִלְבַד שֶׁלֹּא יְזִיזֶנּוּ מִמְּקוֹמוֹ. וְכֵן תּוֹלֵשׁ אֶת הַשֵּׂעָר לִרְאוֹת מְקוֹם מוּם.

MISHNA

Rabbi Yosei ben HaMeshullam[P] **says:** Since it is prohibited by Torah law to shear a firstborn, as it states: "And you shall not shear the firstborn of your flock" (Deuteronomy 15:19), **one who is slaughtering a firstborn,** and must clear hair or wool from the area of the neck in order to facilitate proper slaughter, **clears space** by uprooting the hair **with a cleaver** [***bekofitz***][HL] **from here and from there,** on either side of the neck, although he thereby **plucks** out **the hair.** He may clear space in this manner **provided that he does not move** the plucked hair **from its place;** it must remain intermingled with the rest of the hair so it will appear that he did not shear the animal. **And likewise, one plucks the hair** to enable one of the Sages **to examine the place of a blemish**[H] and thereby determine whether it is permitted to slaughter the firstborn outside the Temple.

גמ׳ אָמַר רַב: הֲלָכָה כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם. בָּעוּ מִינֵּיהּ מֵרַב הוּנָא: כְּגֶנֶדוֹ בְּיוֹם טוֹב, מַהוּ? טַעֲמָא דְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם – מִשּׁוּם דְּקָסָבַר: תּוֹלֵשׁ לָאו הַיְינוּ גּוֹזֵז; וּבְיוֹם טוֹב אָסוּר, דַּהֲוָה לֵיהּ עוֹקֵר דָּבָר מִגִּידּוּלוֹ.

GEMARA

Rav says: The *halakha* is **in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam.** The Sages **raised a dilemma before Rav Huna: What is** the *halakha* in **the parallel** case of one who wishes to slaughter a non-sacred animal **on a Festival?** The resolution depends on **the reason** for the ruling **of Rabbi Yosei ben HaMeshullam:**[N] Does he permit clearing hair with a cleaver **because he holds** that **plucking is not** the same as **shearing, and** as opposed to plucking the hair of a firstborn, **it is prohibited** to pluck hair **on the Festival, as this is** considered **uprooting an item from its** place of **growth?**

אוֹ דִלְמָא: בְּעָלְמָא סָבַר רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם תּוֹלֵשׁ הַיְינוּ גּוֹזֵז; וְהַיְינוּ טַעֲמָא דְּשָׁרֵי – דַּהֲוָה לֵיהּ דָּבָר שֶׁאֵין מִתְכַּוֵּין, וּבְיוֹם טוֹב דָּבָר שֶׁאֵין מִתְכַּוֵּין מוּתָּר?

Or perhaps in general Rabbi Yosei ben HaMeshullam holds that **plucking is** considered a form of **shearing. And this is the reason that it is permitted** to clear space with a cleaver in the case of the firstborn, **as it is an unintentional act,**[N] i.e., an action performed for a permitted purpose from which a prohibited labor may inadvertently ensue, since he does not intend to pluck out the hair; **and on a Festival an unintentional act is permitted.**

PERSONALITIES

Rabbi Yosei ben HaMeshullam – רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם: Rabbi Yosei ben HaMeshullam was a *tanna* and a contemporary of Rabbi Yehuda HaNasi, from the final generation of *tanna'im*. He and his companion, Rabbi Shimon ben Menasya, were part of a group called the holy assembly, whose members devoted one-third of their day to Torah study, one-third to prayer, and one-third to mundane labor. Some identify this assembly with the group called the holy community in Jerusalem, which was composed of Jews who persevered and continued to inhabit Jerusalem in the generations after the destruction of the Second Temple. A small number of Rabbi Yosei ben HaMeshullam's halakhic and aggadic contributions are mentioned in the Mishna and the *Tosefta*.

HALAKHA

Clears space with a cleaver – עוֹשֶׂה מָקוֹם בְּקוֹפִיץ: One who slaughters a firstborn or another consecrated animal may clear a space from each side with a cleaver, provided he does not move the plucked hair from its place. The *halakha* is in accordance with the opinion of Rabbi Yosei ben HaMeshullam (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:11; *Shulḥan Arukh*, *Yoreh De'a* 308:3).

One plucks the hair to examine the place of a blemish – תּוֹלֵשׁ אֶת הַשֵּׂעָר לִרְאוֹת מְקוֹם מוּם: It is permitted to pluck the hair of a consecrated animal in order to enable a Sage to examine the area of a blemish, provided he does not move the plucked hair from its place. This *halakha* is in accordance with the ruling of Rabbi Yosei ben HaMeshullam (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:10; *Shulḥan Arukh*, *Yoreh De'a* 308:3).

LANGUAGE

Cleaver [*kofitz*] – קוֹפִיץ: From the Greek κοπίς, *kopis*, meaning a large knife with a wide blade, used for cutting and chopping.



Roman-era cleaver

NOTES

The reason of Rabbi Yosei ben HaMeshullam – טַעֲמָא דְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם: There are two primary interpretations of this discussion, which in turn affect the halakhic conclusions that arise from it. According to the first interpretation, if it is assumed that plucking is not considered a form of shearing then Rabbi Yosei ben HaMeshullam rules it is permitted to pluck the hair from a firstborn even intentionally on a weekday. By contrast, intentional plucking on a Festival is prohibited, since it involves uprooting an item from its place of growth (see Rambam).

According to the second explanation, even if plucking is not considered a form of shearing, it is still prohibited to pluck the hair of a firstborn intentionally. Rather, the Gemara's question is as follows: Is the ruling that it is permitted to pluck the hair from a firstborn unintentionally due to the fact that there is no prohibition by Torah law against plucking its hair? If so, then on a Festival, when it is prohibited to uproot an item from its origin of growth, the act would be prohibited even when performed unintentionally. Or perhaps there is a prohibition against plucking the hair of a firstborn by Torah law, and the reason it is permitted to clear space with a cleaver in the case of the firstborn is because the plucking is an unintentional act. This would mean that Rabbi Yosei ben HaMeshullam's lenient ruling with regard to clearing a space with a cleaver applies to a Festival as well as a weekday (*Tosafot*; Rabbi Shimshon of Saens).

As it is an unintentional act – דַּהֲוָה לֵיהּ דָּבָר שֶׁאֵין מִתְכַּוֵּין: Rashi explains that one intends only to clear away the hair but not to pluck it. Accordingly, the mishna is teaching that one may clear away the hair despite the fact that this will likely result in its removal. Others maintain that shearing a firstborn, rather than plucking out its hair, is the unintentional act referred to here. Accordingly, the mishna is teaching that it is even permitted to pluck the hair intentionally since one does not intend to shear it (Rabbeinu Gershom Meor HaGola).

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אֲמַר לְהוּ: זִילוּ שַׁיְילוּהּ לְרַב חֲנַנְאֵל, אִי אָמַר הֲלָכָה כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם, אֵיפְשׁוּט לְכוּ. אֲתוּ שַׁיְילוּהּ, אֲמַר לְהוּ, הָכִי אָמַר רַב: הֲלָכָה כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם. אֲתוּ לְקַמֵּיהּ דְּרַב הוּנָא, אֲמַר לְהוּ: כְּנֶגְדּוֹ בְּיוֹם טוֹב מוּתָּר. אִיתְּמַר נַמִּי, אָמַר רַב חֲנַנְיָה בַּר שְׁלֶמְיָא מִשְּׁמֵיהּ דְּרַב: כְּנֶגְדּוֹ בְּיוֹם טוֹב

Rav Huna **said to them: Go** and **ask** Rav's disciple, **Rav Ḥananel,** and **if** Rav in fact **said the *halakha* is in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam, I will explain to you** the resolution of your dilemma. **They went** and **asked** Rav Ḥananel, and **he said to them** that **this is what Rav says:** The ***halakha*** is **in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam. They came before Rav Huna,** and **he said to them:** In **the parallel** case of one who wishes to slaughter a non-sacred animal **on a Festival,** it is **permitted**[H] to pluck the hair in order to facilitate proper slaughter. **It was also stated** that **Rav Ḥananya bar Shelamya says in the name of Rav:** In **the parallel** case of one who wishes to slaughter a non-sacred animal **on a Festival,**

HALAKHA

In the parallel case on a Festival it is permitted – כְּנֶגְדּוֹ בְּיוֹם טוֹב מוּתָּר: The Rambam rules that one may pluck out the wool of an animal he wishes to slaughter on a Festival, provided he does not move the hair from its place, in accordance with the opinion of Rav Huna. The *Shulḥan Arukh* deems this prohibited and rules that one may only push the hairs out of the way on each side; the Rema adds that this should be done by hand. This is in accordance with the opinion of the Rosh and *Tosafot* that the hair of a firstborn may be plucked only unintentionally (Rambam *Sefer Zemanim*, *Hilkhot Yom Tov* 3:3; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 498:12, and see *Magen Avraham* there).

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it is **permitted** to pluck the hair in order to facilitate proper slaughter.

וּמִי אָמַר רַב הָכִי? וְהָא אָמַר רַב חִיָּיא בַּר אַשִׁי מִשְּׁמֵיהּ דְּרַב: מְסוֹכְרָיָא דְּנָזְיָיתָא אָסוּר לַהֲדוֹקֵיהּ בְּיוֹמָא טָבָא!

The Gemara raises a difficulty: **And does Rav** actually **say this? But doesn't Rav Ḥiyya bar Ashi say in the name of Rav:** In the case of **this** cloth **stopper of a barrel** [*mesokhrayya denazyata*],[HLB] it is **prohibited to** insert **it tightly** into the spout of the barrel **on a Festival,** because in the process liquid will be squeezed from the cloth, and squeezing liquids is prohibited on Shabbat and Festivals? Apparently, Rav prohibits even unintentional actions, and it follows that it is prohibited to clear hair with a cleaver on a Festival, as one will unintentionally pluck out some hair.

בְּהַהִיא אֲפִילּוּ רַבִּי שִׁמְעוֹן מוֹדֶה, דְּאַבַּיֵי וְרָבָא דְּאָמְרִי תַּרְוַיְיהוּ: מוֹדֶה רַבִּי שִׁמְעוֹן בִּפְסִיק רֵישֵׁיהּ וְלָא יָמוּת.

The Gemara explains: **In that** case of the stopper, **even** the lenient authority, **Rabbi Shimon, concedes** that it is prohibited, **as Rava and Abaye both say: Rabbi Shimon concedes** that an unintentional act is prohibited if it falls under the category known as: **Cut off its head and will it not die,** i.e., when a prohibited labor is the inevitable consequence of an unintentional act. In the case of the cloth stopper, some water will inevitably be squeezed out.

וְהָא אָמַר רַב חִיָּיא בַּר אַשִׁי אָמַר רַב: הֲלָכָה כְּרַבִּי יְהוּדָה, וְרַב חָנָן בַּר אַמִּי אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי שִׁמְעוֹן. וְרַב חִיָּיא בַּר אָבִין מַתְנֵי בְּלָא גַּבְרֵי, רַב אָמַר: הֲלָכָה כְּרַבִּי יְהוּדָה, וּשְׁמוּאֵל אָמַר: הֲלָכָה כְּרַבִּי שִׁמְעוֹן!

The Gemara objects to the claim that Rav agrees with the opinion of Rabbi Shimon that a regular unintentional act is permitted: **But doesn't Rav Ḥiyya bar Ashi say** that **Rav says:** The ***halakha*** is **in accordance with** the opinion of **Rabbi Yehuda, and Rav Ḥanan bar Ami** says that **Shmuel says:** The ***halakha*** is **in accordance with** the opinion of **Rabbi Shimon. And Rav Ḥiyya bar Avin teaches** Rav and Shmuel's rulings **without** mentioning either **man,** neither Rabbi Ḥiyya bar Ashi nor Rav Ḥanan bar Ami, and says: **Rav says** the ***halakha*** is **in accordance with** the opinion of **Rabbi Yehuda, and Shmuel says** the ***halakha*** is **in accordance with** the opinion of **Rabbi Shimon.**

HALAKHA

Cloth stopper of a barrel – מְסוֹכְרָיָא דְּנָזְיָיתָא: Generally, permitted actions that might lead to the performance of a prohibited labor remain permitted, provided that one does not intend to perform the prohibited labor. But if it is certain that a prohibited labor will ensue as a result of a particular action, then the action is prohibited, even if there was no intention of performing the labor itself.

Nevertheless, some authorities rule that it is permitted to use a cloth stopper, despite the fact that some liquid will certainly be squeezed out of it, because the owner prefers not to lose the liquid that is removed from the cloth during this process (*Arukh*). Others reject this claim and rule that an action which necessarily results in the performance of a prohibited labor remains prohibited, even if the results of that labor are unwanted (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 1:5–6; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 320:18).

LANGUAGE

Stopper of a barrel [*mesokhrayya denazyata*] – מְסוֹכְרָיָא דְּנָזְיָיתָא: *Nazyata* means a large barrel, apparently from the Akkadian term namzitu, which refers to the barrels in which beer was fermented. *Mesokhraya* refers to the area from which wine would be extracted, from the Aramaic *sover*, meaning to let blood.

BACKGROUND

Stopper of a barrel – מְסוֹכְרָיָא דְּנָזְיָיתָא: There are various opinions with regard to both the nature of this item and the halakhic issue involved. According to Rashi and several of the *ge'onim*, the reference is to a cloth stopper or a stopper covered in cloth that plugs a hole in the side of the barrel, and the halakhic problem relates to squeezing the liquid from the cloth. The *Arukh* cites a different opinion, based on a geonic tradition, that the reference is to a wooden covering used to seal the side of the barrel, and the concern is with regard to the prohibited labor of building. Although one's intention is merely to prevent the wine from leaking, by fixing the covering in place he is essentially building the side of the barrel.

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אֶלָּא לְעוֹלָם סָבַר רַב דָּבָר שֶׁאֵין מִתְכַּוֵּין – אָסוּר, וְתוֹלֵשׁ לָאו הַיְינוּ גּוֹזֵז. וּבְיוֹם טוֹב הַיְינוּ טַעֲמָא דְּשָׁרֵי – דַּהֲוָה לֵיהּ עוֹקֵר דָּבָר מִגִּידּוּלוֹ כִּלְאַחַר יָד.

Rather, actually Rav holds that **an unintentional act is prohibited, and** he permits plucking the hair of a firstborn because he maintains that **plucking is not** considered a form of **shearing.**[H] **And this** is the **reason** he **permits** clearing the hair with a cleaver **on a Festival,**[N] **because it is** considered **uprooting an item from its** place of **growth in an unusual manner,** and performing a prohibited labor in an unusual manner is not prohibited by Torah law.

וְתוֹלֵשׁ לָאו הַיְינוּ גּוֹזֵז? וְהָתַנְיָא: הַתּוֹלֵשׁ אֶת הַכָּנָף, וְהַקּוֹטֵמוֹ, וְהַמּוֹרְטוֹ – חַיָּיב שָׁלֹשׁ חַטָּאוֹת. וְאָמַר רֵישׁ לָקִישׁ: תּוֹלֵשׁ – חַיָּיב מִשּׁוּם גּוֹזֵז, קוֹטֵם – חַיָּיב מִשּׁוּם מְחַתֵּךְ, מְמָרֵט – חַיָּיב מִשּׁוּם מְמַחֵק! שָׁאנֵי כָּנָף, דְּהַיְינוּ אוֹרְחֵיהּ.

The Gemara raises a difficulty: **And** can it be claimed that **plucking is not** considered a form of **shearing? But isn't it taught** in a *baraita*: **One who** unwittingly **plucks** a large feather from **the wing**[H] of a bird on Shabbat, **and one who snips** the tip of the feather, **and one who pulls out** the thin threads that constitute the feather is **obligated** to bring **three sin offerings,** one for each transgression. **And Reish Lakish says,** in explanation: One who **plucks** the wing is **liable due to** the labor of **shearing.** One who **snips** the tip of the feather is **liable due to** the labor of **cutting.** And one who **pulls out** the threads is **liable due to** the labor of **smoothing.** The Gemara explains: Plucking **a wing is different** from plucking hair, **as that is the normal** method[H] employed to remove feathers.

וּמִדְּרַב סָבַר כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם – רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם סָבַר לָהּ כְּרַב. וְסָבַר רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם דָּבָר שֶׁאֵין מִתְכַּוֵּין אָסוּר?

The Gemara comments: **And from** the fact **that Rav holds in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam** that plucking is not considered shearing, it can be inferred that **Rabbi Yosei ben HaMeshullam holds in accordance with** the opinion of **Rav** that an unintentional act is prohibited. The Gemara asks: **And** does **Rabbi Yosei ben HaMeshullam hold** that **an unintentional act is prohibited?**

וְהָתַנְיָא: שְׁתֵּי שְׂעָרוֹת עִיקָּרָן מַאֲדִים וְרֹאשָׁן מַשְׁחִיר, רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם אוֹמֵר: גּוֹזֵז בְּמִסְפָּרַיִם וְאֵינוֹ חוֹשֵׁשׁ!

But isn't it taught in a *baraita*: With regard to a red heifer, which is rendered unfit if it possesses two black hairs, that had **two hairs whose roots were red but whose tops were black,**[H] **Rabbi Yosei ben HaMeshullam says: One shears** the tops **with scissors, and** he need **not** be **concerned**[N] that he is violating the prohibition against shearing a consecrated animal. Apparently, the reason is that he does not intend to shear the red heifer but only to render it fit. This indicates that Rabbi Yosei ben HaMeshullam holds an unintentional act is permitted.

שָׁאנֵי פָּרָה, דְּלָאו בַּת גִּיזָּה הִיא. וְהָתַנְיָא: ״לֹא תַעֲבֹד בִּבְכֹר שׁוֹרֶךָ וְלֹא תָגֹז בְּכוֹר צֹאנֶךָ״ – וְאֵין לִי אֶלָּא שׁוֹר בַּעֲבוֹדָה וְצֹאן בְּגִיזָּה, מִנַּיִן לִיתֵּן אֶת הָאָמוּר שֶׁל זֶה בָּזֶה, וְאֶת הָאָמוּר שֶׁל זֶה בָּזֶה? תַּלְמוּד לוֹמַר: ״לֹא תַעֲבֹד..וְלֹא תָגֹז״!

The Gemara answers: A red **heifer is different, as it is not subject to** the prohibition against **shearing** a consecrated animal because it does not have wool, and that is why it is permitted to cut the tops of its hairs. The Gemara raises a difficulty: **But isn't it taught** in a *baraita*: The verse states: "**You shall do no work with the firstborn of your ox, and you shall not shear the firstborn of your flock**" (Deuteronomy 15:19). **I have** derived **only** that a firstborn **ox** may not be used **for labor and** that a firstborn **sheep** may not be used **for shearing. From where** is it derived **to apply what is said about that** animal **to this** one,[H] **and** what is said **about this** animal **to that** one? **The verse states: "You shall do no work … and you shall not shear."** The term "and" indicates the two parts of the verse apply to both animals. Evidently, the act of shearing does apply to an ox, including a red heifer.

HALAKHA

Plucking is not shearing – תּוֹלֵשׁ לָאו הַיְינוּ גּוֹזֵז: All animals consecrated for the altar are subject to the prohibition against shearing. Nevertheless, plucking is not considered shearing, in accordance with the opinion of Rav (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:7).

One who unwittingly plucks the wing – הַתּוֹלֵשׁ אֶת הַכָּנָף: Plucking the feather of a bird is considered a form of the prohibited labor of shearing. Severing the feather's top is considered a form of cutting, while pulling its bristles is considered a form of smoothing. One is liable to bring a sin offering for unintentionally performing any of these actions, in accordance with the *baraita* and Reish Lakish's explanation (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 9:7, 11:6–7).

Plucking a wing is different, as that is the normal method – שָׁאנֵי כָּנָף דְּהַיְינוּ אוֹרְחֵיהּ: One who slaughters a bird during a Festival may not pluck its feathers in order to facilitate the slaughter, as this is the normal method employed to remove feathers (Rambam *Sefer Zemanim*, *Hilkhot Yom Tov* 3:3; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 498:13).

Whose roots were red but whose tops were black – עִיקָּרָן מַאֲדִים וְרֹאשָׁן מַשְׁחִיר: It is permitted to use scissors to cut off the black tops of two hairs on a red heifer. This is in accordance with the final interpretation of the opinion of Rabbi Yosei ben HaMeshullam (Rambam *Sefer Tahara*, *Hilkhot Para Aduma* 1:3).

To apply what is said about that animal to this one – לִיתֵּן אֶת הָאָמוּר שֶׁל זֶה בָּזֶה: It is prohibited to shear any consecrated animal or use it for labor, in accordance with the verse: "You shall do no work with the firstborn of your ox, and you shall not shear the firstborn of your flock" (Deuteronomy 15:19). One who does so is liable to receive lashes by Torah law (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:7).

NOTES

And this is the reason he permits it on a Festival, etc. – וּבְיוֹם טוֹב הַיְינוּ טַעֲמָא דְּשָׁרֵי וכו': Just as plucking the hair of a firstborn is not considered shearing, so too, it is not considered uprooting an item from its place of growth and is consequently permitted on a Festival. The precise interpretation of this matter depends on what the Gemara means here. If it is assumed that it is permitted to pluck the hair of a firstborn intentionally, then here too, it is permitted to pluck the hair on the Festival in order to facilitate the animal's slaughter (Rambam). Conversely, if intentionally plucking a firstborn's hair was never permitted, then it is permitted only to move the hair, even if this might result in its inadvertent removal (*Tosafot*).

This second interpretation is more consistent with the standard principle of the *halakhot* of Shabbat, as prohibited labors are not usually permitted *ab initio*, even when performed in an unusual manner. Some maintain that this is an exception, as slaughtering an animal to be eaten during the Festival is considered a mitzva (Rambam).

One shears the tops with scissors and he need not be concerned – גּוֹזֵז בְּמִסְפָּרַיִם וְאֵינוֹ חוֹשֵׁשׁ: Some maintain one does not need to be concerned that he might be violating the prohibition of shearing, as he does not intend to shear the animal but only to render it fit (Rashi; Rambam; Rabbeinu Gershom Meor HaGola). Others reject this interpretation, as here, although the purpose of cutting the hair is not to procure it, the intention is nevertheless to shear the animal. Rather, the concern is that he might come to shear other hairs (*Tosafot*).

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אֶלָּא, שָׁאנֵי פָּרָה דִּקְדֻשֵּׁי בֶּדֶק הַבַּיִת הִיא. וְהָאָמַר רַבִּי אֶלְעָזָר: קָדְשֵׁי בֶּדֶק הַבַּיִת אֲסוּרִין בְּגִיזָּה וַעֲבוֹדָה! מִדְּרַבָּנַן. וְהָאֵיכָּא אִיסּוּרָא דְּרַבָּנַן! אֶלָּא שָׁאנֵי פָּרָה דְּלָא שְׁכִיחָא.

Rather, the red **heifer is different, as** it has the sanctity **of** items **consecrated for Temple maintenance,**[H] and therefore the prohibitions that apply to offerings do not necessarily apply to it. The Gemara raises a difficulty: **But doesn't Rabbi Elazar say** it is **prohibited to shear or** perform **labor** with items **consecrated for Temple maintenance?** The Gemara answers: That prohibition applies **by rabbinic law.** The Gemara retorts: **But** that does not resolve the difficulty, as **there is** nevertheless still **a prohibition by rabbinic law.** Why, then, did Rabbi Yosei ben HaMeshullam deem it permitted for one to shear the tops of its hairs with scissors? The Gemara accepts this objection: **Rather,** the red **heifer is different, as it is uncommon,** and Rabbi Yosei ben HaMeshullam therefore maintains that the prohibition by rabbinic law was not applied to this case.

וְלִיחַלְּלָהּ, וְלַפְקָהּ לְחוּלִין, וְלִיגְזֹז, וְהַדַּר לִיקַדְּשָׁהּ! דָּמֶיהָ יְקָרִין. וְלִיעֲבַד לָהּ כִּדְשְׁמוּאֵל, דְּאָמַר שְׁמוּאֵל: הֶקְדֵּשׁ שָׁוֶה מָנֶה שֶׁחִילְּלוֹ עַל שָׁוֶה פְּרוּטָה – מְחוּלָּל! אֵימוּר דְּאָמַר שְׁמוּאֵל שֶׁחִילְּלוֹ, לְכַתְּחִלָּה מִי אָמַר?

The Gemara challenges: **But let** the owner **desacralize** the heifer **and render it non-sacred, and shear it, and then consecrate it** again. The Gemara explains it is unreasonable to demand he desacralize it, as **its price is expensive,** and it would take an exceptionally large sum of money to desacralize it. The Gemara challenges: **But let him act in** accordance with the statement **of Shmuel, as Shmuel says: A consecrated** animal **worth one hundred dinars that one desacralized upon the value of one *peruta* is desacralized.** The Gemara explains: You can **say that Shmuel said that he has** successfully **desacralized** the animal, but **did he say** an animal may be desacralized in this manner ***ab initio*?** The Gemara therefore concludes that Rabbi Yosei ben HaMeshullam deems it permitted for one to cut the tops of a red heifer's hairs because it is an uncommon case.

אִיבָּעֵית אֵימָא: רַב סָבַר לָהּ כְּרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם, וְרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם לָא סָבַר לָהּ כְּרַב.

And if you wish, say instead that although **Rav holds in accordance with** the opinion of **Rabbi Yosei ben HaMeshullam, Rabbi Yosei ben HaMeshullam does not hold in accordance with** the opinion of **Rav.**

"וְתוֹלֵשׁ אֶת הַשֵּׂעָר וּבְלִבַּד שֶׁלֹּא יְזִיזֶנּוּ מִמְּקוֹמוֹ". אָמַר רַב אַשִׁי אָמַר רֵישׁ לָקִישׁ: לֹא שָׁנוּ אֶלָּא בַּיָּד, אֲבָל בִּכְלִי – אָסוּר. וְהָקָתָנֵי: עוֹשֶׂה מָקוֹם בְּקוֹפִיץ מִיכָּן וּמִיכָּן! תְּנֵי: "לְקוֹפִיץ".

§ The mishna teaches: One who is slaughtering a firstborn clears space with a cleaver from here and from there, on either side of the neck, although he thereby **plucks** out **the hair.** He may clear space in this manner **provided that he does not move** the hair **from its place. Rav Ashi says** that **Reish Lakish says: They taught** that this is permitted **only** if one plucks the hair **by hand, but** if he does it **with a tool** it is **prohibited,**[H] as it appears as though he is shearing the firstborn. The Gemara asks: **But isn't it taught** that one may **clear space with a cleaver from here and from there** on either side of the neck? The Gemara answers: **Teach** it as: One may clear space with his hands **for a cleaver,**[N] but he may not clear space with a cleaver.

"וְכֵן תּוֹלֵשׁ אֶת הַשֵּׂעָר לִרְאוֹת מוּם". אִיבַּעְיָא לְהוּ: לְכַתְּחִלָּה אוֹ דִיעֲבַד? אָמַר רַבִּי יִרְמְיָה, תָּא שְׁמַע: צֶמֶר הַמְסוּבָּךְ בָּאָזְנוֹ, רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם אוֹמֵר: תּוֹלְשׁוֹ וּמַרְאֶה אֶת מוּמוֹ. שְׁמַע מִינָּהּ לְכַתְּחִלָּה, שְׁמַע מִינָּהּ.

The mishna further teaches: **And likewise, one plucks the hair** to enable one of the Sages **to examine the place of a blemish. A dilemma was raised before** the Sages: Is this permitted ***ab initio*, or** only **after the fact?**[H] **Rabbi Yirmeya said: Come** and **hear** a *baraita*: If there is **wool that is entangled in** a firstborn's **ear,** and it is obscuring a blemish that must be examined, **Rabbi Yosei ben HaMeshullam says: One plucks** the wool **and shows** the animal's **blemish** to a Sage in order to determine whether it is permitted to slaughter the animal outside the Temple. One can **conclude from** the *baraita* that it is permitted ***ab initio*.** The Gemara affirms: Indeed, **conclude from it** that this is so.

HALAKHA

Items consecrated for Temple maintenance – קָדְשֵׁי בֶּדֶק הַבַּיִת: By rabbinic law, animals consecrated for the Temple maintenance may not be shorn or used for labor. Since this is not prohibited by Torah law, one who violates the prohibition is not flogged by Torah law. Nevertheless, he receives lashes for rebelliousness, by rabbinic law (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:12).

But with a tool it is prohibited – אֲבָל בִּכְלִי אָסוּר: It is permitted to pluck the hair of a firstborn in order to slaughter it or to examine a blemish on its body, provided one plucks the hair by hand, not with a tool (*Shulḥan Arukh*, *Yoreh De'a* 308:3).

***Ab initio* or only after the fact – לְכַתְּחִלָּה אוֹ דִיעֲבַד:** It is permitted to pluck the hair of a consecrated animal in order to enable the inspection of a blemish *ab initio* (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:10; *Shulḥan Arukh*, *Yoreh De'a* 308:3).

NOTES

Teach it as, for a cleaver – תְּנֵי לְקוֹפִיץ: The commentaries note that the cleaver was a large, heavy knife that was not used for slaughter but in order to cut meat into large pieces (*Tosafot* on 24b). They therefore explain that one is permitted to clear a space that is wider than the thickness of a knife, in a manner that would render it possible to slice the area with a cleaver after slaughter.

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אָמַר רַב מָרִי, אַף אֲנַן נַמִּי תָּנֵינָא: וְכֵן הַתּוֹלֵשׁ אֶת הַשֵּׂעָר לְרְאוֹת מְקוֹם מוּם; מַאי ״וְכֵן״? אִילֵימָא שֶׁלֹּא יָזִיז אֶת מְקוֹמוֹ; הָשְׁתָּא, וּמַה שׁוֹחֵט, דְּשָׁחֵיטָתוֹ מוֹכַחַת עָלָיו – לֹא יְזִיזֶנּוּ, לִרְאוֹת מְקוֹם מוּם מִיבָּעֵיָא?

The Gemara corroborates its conclusion. **Rav Mari said: We learn** in the mishna **as well: And likewise, one plucks the hair to examine the place of a blemish. What** is the mishna referring to in its comparison: **And likewise? If we say** it is referring to the mishna's ruling **that** when one slaughters a firstborn he **may not move** the plucked hair **from its place,** then the second *halakha* is unnecessary. **Now** that it is taught that **if,** when **one** comes to **slaughter** the animal, **where its** imminent **slaughter renders it evident** that he does not intend to shear it, but nevertheless **he may not** remove the hair, **is** it **necessary** to teach that one may not remove the plucked hair in order **to examine the place of a blemish?**

אֶלָּא לָאו אַתּוֹלֵשׁ. שְׁמַע מִינָּהּ לְכַתְּחִלָּה, שְׁמַע מִינָּהּ.

Rather, isn't the mishna's comparison referring **to** the fact that it is permitted to **pluck** the hair *ab initio*? Just as it is permitted to pluck the hair for the purpose of slaughtering the animal, so too, it is permitted to pluck the hair in order to examine a blemish. **Conclude from it** that it is permitted *ab initio*. The Gemara affirms: Indeed, **conclude from it** that this is so.

מַתְנִי׳ שֵׂעַר בְּכוֹר בַּעַל מוּם שֶׁנָּשַׁר וְהִנִּיחוֹ בַּחֲלוֹן, וְאַחַר כָּךְ שְׁחָטוֹ – עֵקַבְיָא בֶּן מַהֲלַלְאֵל מַתִּיר,

MISHNA With regard to **the hair of a blemished firstborn**[N] animal **that shed** from the animal, **and which one placed in a compartment** for safekeeping, **and thereafter he slaughtered** the animal; given that after the animal dies he is permitted to derive benefit from the hair the animal had on its body when it died, what is the halakhic status of hair that shed from the animal while it was alive? **Akavya ben Mahalalel deems** its use **permitted,**

NOTES

The hair of a blemished firstborn – שֵׂעַר בְּכוֹר בַּעַל מוּם: *Tosafot* explain that the basic assumption of this mishna is that it is prohibited to derive benefit from the wool of a firstborn while the animal is alive, even if it is blemished. The Gemara later indicates that the shed wool is permitted by Torah law even when the animal is alive, but the Sages rendered it prohibited in order to prevent one from shearing the animal. The dispute in the mishna concerns whether or not this prohibition is in effect even after the animal dies. Others maintain that while the animal is alive the wool is prohibited by Torah law (Rabbeinu Gershom Meor HaGola; see Maharit Algazi).

Perek **III**
Daf **25** Amud **b**

וַחֲכָמִים אוֹסְרִין, דִּבְרֵי רַבִּי יְהוּדָה. אָמַר לוֹ רַבִּי יוֹסֵי: לֹא בָּזֶה הִתִּיר עֵקַבְיָא בֶּן מַהֲלַלְאֵל, אֶלָּא שֵׂעַר בַּעַל מוּם שֶׁנָּשַׁר וְהִנִּיחוֹ בַּחֲלוֹן, וְאַחַר כָּךְ מֵת – בָּזֶה עֵקַבְיָא בֶּן מַהֲלַלְאֵל מַתִּיר וַחֲכָמִים אוֹסְרִין.

and the Rabbis deem its use **prohibited;** this is **the statement of Rabbi Yehuda. Rabbi Yosei said to him:** It was **not with regard to that** case **that Akavya ben Mahalalel**[P] **deemed** use of the wool permitted. **Rather,** it was in the case of **the hair of a blemished** firstborn animal **that shed**[H] from the animal **which one placed in a compartment and thereafter** the animal **died.** It was **in that** case that **Akavya ben Mahalalel deems** use of the wool **permitted, and the Rabbis deem** its use **prohibited** even after its death.

צֶמֶר הַמְדוּלְדָּל בִּבְכוֹר, אֶת שֶׁנִּרְאֶה עִם הַגִּיזָּה – מוּתָּר, וְאֶת שֶׁאֵינוֹ נִרְאֶה עִם הַגִּיזָּה – אָסוּר.

With regard to **wool that is dangling from a firstborn**[H] animal, i.e., which was not completely shed, **that which appears** to be part **of the fleece** is **permitted** when the animal is shorn after its death, **and that which does not appear** to be part **of the fleece** is **prohibited.**

PERSONALITIES

Akavya ben Mahalalel – עֵקַבְיָא בֶּן מַהֲלַלְאֵל: One of the first *tanna'im* and a contemporary of Hillel the Elder a century before the destruction of the Temple, Akavya ben Mahalalel maintained stringent opinions that were at odds with most of the Sages of his generation. His eminence in Torah is clear from the fact that his fellow Sages told him that if he reconsidered the rulings that they found unacceptable he would be appointed head of the *beit din*. He famously replied: I would rather be called a fool for my entire life than be wicked for a single hour.

This firmness was based upon Akavya ben Mahalalel's piety and his profound fear of Heaven, as well as the conviction that he must pass on the *halakha* as he received it from his teachers. Nevertheless, he told his son to accept the opinion of the majority. Few of his halakhic and aggadic statements are recorded in the Mishna.

HALAKHA

The hair of a blemished firstborn animal that shed – שֵׂעַר בַּעַל מוּם שֶׁנָּשַׁר: It is prohibited to derive benefit from any wool that comes from a firstborn animal. This is the *halakha* regardless of whether it was shed or shorn, and it applies to both a blemished and an unblemished animal, even if it was then slaughtered. The reason for this prohibition is to prevent the owner from keeping the firstborn longer than necessary in order to collect the wool that it sheds. The *halakha* is in accordance with the opinion of Rabbi Yehuda and the interpretation of Reish Lakish (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:11, and see *Sefer Avoda*, *Hilkhot Me'ila* 1:10; *Shulḥan Arukh*, *Yoreh De'a* 308:1).

Wool that is dangling from a firstborn – צֶמֶר הַמְדוּלְדָּל בִּבְכוֹר: Detached wool that remains tangled in the attached wool of a firstborn is permitted once the animal has been slaughtered, provided it appears to be part of the fleece. If it does not, it remains prohibited (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:12; *Shulḥan Arukh*, *Yoreh De'a* 308:1).

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HALAKHA

Blemished animals render them prohibited in any ratio – בַּעֲלֵי מוּמִין אוֹסְרִין בְּכָל שֶׁהוּא: An animal that may not be sacrificed renders prohibited any group of animals in which it is intermingled, regardless of the ratio of fit to unfit animals (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:12).

Became intermingled with non-sacred wool – נִתְעָרְבוּ בְּגִיזֵּי חוּלִּין: Shorn wool of a firstborn that became intermingled with non-sacred shorn wool renders prohibited the entire mass of wool, even if the firstborn was a blemished animal. The *halakha* is in accordance with the opinion of the first *tanna* and the interpretation of Rav Naḥman (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:13; *Shulḥan Arukh*, *Yoreh De'a* 308:4).

גמ' מִכְּלָל דְּאָסַר? הָשְׁתָּא בִּמֵּת שָׁרֵי, שְׁחָטוֹ מִיבָּעֵיָא?!

GEMARA Rabbi Yosei's statement, that it was not with regard to the case where the animal was slaughtered that Akavya ben Mahalalel deemed use of the wool permitted, apparently indicates **by inference that** Akavya ben Mahalalel **deemed** use of the wool **prohibited** if the animal was slaughtered. This is difficult: **Now** that it has been taught that use of the detached wool of **a dead** firstborn **is permitted,** despite the fact that the attached hair must be buried, **is it necessary** to teach that detached wool is permitted in a case where **one slaughtered** the animal, where the use of the attached hair is permitted?

אֶלָּא: לֹא בָּזֶה הִתִּיר עֲקַבְיָא וַחֲכָמִים אוֹסְרִין; שְׁחָטוֹ – דִּבְרֵי הַכֹּל שָׁרֵי, כִּי פְּלִיגִי – בְּמֵת.

Rather, Rabbi Yosei means that it was **not in that** case that **Akavya deemed** use of the detached wool **permitted** while **the Rabbis deem** it **prohibited,** since if **he slaughtered** the animal, **everyone agrees** that use of the wool is **permitted. They disagree** in a case **where** the detached wool came from **a dead** animal that was not slaughtered.

אָמַר רַבִּי אַסִי אָמַר רֵישׁ לָקִישׁ: מַחֲלוֹקֶת בְּשֶׁהִתִּירוֹ מוּמְחֶה, דְּמָר סָבַר גָּזְרִינַן דִּלְמָא אָתֵי לַשְׁהוּיֵיהּ, וּמָר סָבַר לָא גָּזְרִינַן. אֲבָל לֹא הִתִּירוֹ מוּמְחֶה – דִּבְרֵי הַכֹּל אָסוּר.

Rabbi Asi says that **Reish Lakish says:** The **dispute** applies in a case **where an expert deemed** the animal **permitted** for slaughter due to a blemish before the wool was shed, **as** one **Sage,** the Rabbis, **holds** that **we decree** that use of the wool the animal sheds is prohibited, **lest one come to postpone**[N] its slaughter in order to collect the wool that it sheds. The Rabbis wanted a blemished firstborn to be slaughtered as soon as possible, lest one shear it or use it for labor, both of which are prohibited by Torah law. **And** one **Sage,** Akavya ben Mahalalel, **holds** that **we do not** issue such **a decree. But** in a case where **an expert did not deem** the animal **permitted** for slaughter before its wool was shed, **all agree** that use of the wool is **prohibited,** even after the animal died or was slaughtered.

מָתִיב רַב שֵׁשֶׁת: בַּעֲלֵי מוּמִין אוֹסְרִין בְּכָל שֶׁהוּא, וְרַבִּי יוֹסֵי אוֹמֵר: יְבֻקַּר.

Rav Sheshet raises an objection from a *baraita*: **Blemished** animals that become intermingled with unblemished animals **render** the entire group of animals **prohibited in any** ratio,[H] even if there was only one blemished animal. Since blemished animals may not be sacrificed, and it is impossible to distinguish them from the unblemished animals, none may be sacrificed on the altar. **And Rabbi Yosei says: Let** the matter **be investigated.**

וְהָוֵינַן בָּהּ: מַאי ״יְבֻקַּר״? אִילֵימָא דְּבַעַל מוּם הוּא וְלִישְׁקְלֵיהּ – מִכְּלָל דְּתַנָּא קַמָּא אָמַר לָאו?

Rav Sheshet continues: **And we discussed it,** and inquired: **What** did Rabbi Yosei mean when he said: **Let** the matter **be investigated? Shall we say** he meant **that** one should search for **the blemished animal and remove it** from the group, so that the other animals may be slaughtered on the altar? This is difficult, as in that case, **by inference, the first *tanna* said** that in such a case the remaining unblemished animals are still **not** permitted. This cannot be so, as there is no reason to deem the remaining animals prohibited once the blemished animal has been removed.

אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: הָכָא בְּגִיזַּת בְּכוֹר בַּעַל מוּם עָסְקִינַן, שֶׁנִּתְעָרְבוּ בְּגִיזֵּי חוּלִּין, וּמַאן תַּנָּא קַמָּא – רַבִּי יְהוּדָה הִיא, דְּאָמַר: נִשְׁחֲטוּ אָסְרִי רַבָּנַן. וְרַבִּי יוֹסֵי לְטַעֲמֵיהּ דְּאָמַר: נִשְׁחֲטוּ שָׁרוּ רַבָּנַן.

And **Rav Naḥman says** that **Rabba bar Avuh says: Here we are dealing with** a case **of** the **shearings of a blemished firstborn, whose** detached wool **became intermingled with non-sacred wool.**[HN] **And who is the first *tanna*,** who holds that all the wool is prohibited? **It is Rabbi Yehuda, who says** in the mishna here that if the firstborn **were slaughtered, the Rabbis deem** use of their wool **prohibited. And Rabbi Yosei** conforms **to his** line of **reasoning, as he says:** If the firstborn **were slaughtered, the Rabbis deem** use of their wool **permitted.**

NOTES

We decree lest one come to postpone – גָּזְרִינַן דִּלְמָא אָתֵי לַשְׁהוּיֵיהּ: Rashi states that the reason for this is to prevent the violation of the prohibition against shearing or performing labor with a firstborn. Others explain it is to prevent one from neglecting to eat it within its first year of life (Rambam), in accordance with the ruling of the mishna on 26b: The firstborn animal is eaten year by year, i.e., within its first year, whether it is blemished or whether it is unblemished, as it is stated: "You shall eat it before the Lord your God year by year" (Deuteronomy 15:20).

Whose wool became intermingled with non-sacred wool – שֶׁנִּתְעָרְבוּ בְּגִיזֵּי חוּלִּין: The Rambam writes that the sacred shorn wool is not nullified in the majority of non-sacred wool because it is considered significant. The Ra'avad explains it is not nullified either because the case is one where an individual intentionally violated the prohibition against shearing the animal, or because it remains prohibited due to the concern that one might keep the animal longer and eventually come to shear it or labor with it intentionally (see Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:13, and Mahari Kurkus and *Kesef Mishne* there).

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וְקָתָנֵי: יְבוּקַר; מַאי ״יְבוּקַר״ – לָאו אִי מוּם קָבוּעַ אִי מוּם עוֹבֵר הוּא, אַף עַל גַּב שֶׁלֹּא הִתִּירוֹ מוּמְחֶה?

Rav Sheshet explains his objection to the interpretation of Reish Lakish: **And it is taught** that Rabbi Yosei says: **Let** the matter **be investigated. What** does he mean when he says: Let the matter **be investigated?** Does this **not** mean that an expert examines the animal to determine **whether** it is **a permanent blemish,** in which case the intermingled wool is permitted, or **whether it is a temporary blemish** and the use of the wool is prohibited? If so, Rabbi Yosei holds that wool shed from a firstborn is permitted **even though** it was shed before the **expert deemed** the blemish to be permanent and the animal **permitted** for slaughter. This contradicts the interpretation of Reish Lakish.

אֲמַר רָבָא: לָא, יְבוּקַר, אִי הִתִּירוֹ מוּמְחֶה – אִין, וְאִי לָא – לָא.

Rava said in response: **No,** Rabbi Yosei meant that the matter **should be investigated** to determine **if an expert had deemed** the firstborn **permitted** for slaughter before its wool was shed. If he did, then **yes,** the wool is permitted; **and if not,** it is **not** permitted.

כִּי סָלֵיק רָבִין אֲמָרָהּ לִשְׁמַעְתָּא קַמֵּיהּ דְּרַבִּי יִרְמְיָה. אֲמַר: בַּבְלָאֵי טִפְּשָׁאֵי, מִשּׁוּם דְּיָתְבִי בְּאַרְעָא דַּחֲשׁוֹכָא אָמְרִי שְׁמַעְתָּא דְּמַחֲשְׁכָן! לָא שְׁמִיעַ לְהוּ הָא דְּאָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: מַחֲלוֹקֶת בְּשָׁבַדַק וְלֹא מָצָא,

The Gemara relates: **When Ravin ascended** from Babylonia to Eretz Yisrael, **he stated this *halakha,*** including Rav Naḥman's interpretation of the *baraita,* **in the presence of Rabbi Yirmeya.**[P] Rabbi Yirmeya **said: Foolish Babylonians!**[B] **Because they dwell in a dark land, they state *halakhot* that are dim. Did they not hear that which Rabbi Ḥiyya bar Abba says** that **Rabbi Yoḥanan says:** That mishna is dealing with the animals themselves, not their wool, and the **dispute** between the first *tanna* and Rabbi Yosei is **with regard to** a case **where one examined** the flock **and did not find** the blemished animal?

וְקָמִיפַּלְגִי בְּפִלּוּגְתָּא דְּרַבִּי מֵאִיר וְרַבָּנַן. דְּתָנַן, שֶׁהָיָה רַבִּי מֵאִיר אוֹמֵר: כָּל דָּבָר שֶׁהָיָה בְּחֶזְקַת טוּמְאָה – לְעוֹלָם הוּא בְּטוּמְאָתוֹ עַד שֶׁיֵּיתְוַדַּע הַטּוּמְאָה,

And they disagree with regard to the issue that is the subject of **the dispute** between **Rabbi Meir and the Rabbis. As we learned** in a mishna (*Pesaḥim* 10a) **that Rabbi Meir would say: Any object that was** held **in the presumptive status of ritual impurity,** e.g., it is certain that there was a grave in a particular field, that place **forever** remains **in its ritual impurity,** even if it was excavated and the source of impurity was not found, **until it becomes known to you** the location of **the ritual impurity,** and then the rest of the field is permitted. The assumption is that the impurity was not found because the search was not conducted properly.

וַחֲכָמִים אוֹמְרִים: חוֹפֵר עַד שֶׁמַּגִּיעַ לַסֶּלַע אוֹ לִבְתוּלָה.

And the Rabbis say: He continues **digging until he reaches bedrock**[H] **or virgin** soil, under which there is certainly no ritual impurity. If he searched this extensively and failed to discover any impurity, it is evidently no longer there. Similarly, in the case of the *baraita,* the dispute is whether or not failure to locate the blemished animal constitutes sufficient reason to conclude that it is no longer intermingled with the rest of the flock. Accordingly, the first *tanna* holds in accordance with the opinion of Rabbi Meir while Rabbi Yosei holds in accordance with the opinion of the Rabbis.

רַבִּי אַסִי אָמַר רַבִּי יוֹחָנָן: מַחֲלוֹקֶת כְּשֶׁבַּדַק וּמָצָא, וְקָמִיפַּלְגִי בְּפִלּוּגְתָּא דְּרַבִּי וְרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל.

The Gemara cites another version of Rabbi Yoḥanan's interpretation of the *baraita*: **Rabbi Asi says** that **Rabbi Yoḥanan** says: The **dispute** is with regard to a case **where he examined** the flock **and found** the blemished animal, **and they disagree with regard to** the issue that is the subject of **the dispute** between **Rabbi** Yehuda HaNasi **and Rabban Shimon ben Gamliel.**

דְּתַנְיָא: שָׂדֶה שֶׁאָבַד בָּהּ קֶבֶר, נִכְנַס בְּתוֹכָהּ – טָמֵא. נִמְצָא בְּתוֹכָהּ קֶבֶר, נִכְנַס לְתוֹכָהּ – טָהוֹר, שֶׁאֲנִי אוֹמֵר: הוּא קֶבֶר שֶׁאָבַד – הוּא קֶבֶר שֶׁנִּמְצָא, דִּבְרֵי רַבִּי. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: תִּיבָּדֵק כָּל הַשָּׂדֶה כּוּלָּהּ.

This is **as it is taught** in a *baraita*: With regard to **a field in which a grave was lost, one who enters it** becomes **impure** due to the possibility that he passed over the grave and thereby contracted ritual impurity. **If a grave was** subsequently **found in it, one who enters** the field not in the place of the found grave remains **pure, as I say: The grave that was lost is the grave that was found.** This is **the statement of Rabbi** Yehuda HaNasi. **Rabban Shimon ben Gamliel says: Let the entire field be examined** before ruling that one who enters it remains pure. Similarly, in the *baraita* concerning the intermingled blemished and unblemished animals, the first *tanna* holds in accordance with the opinion of Rabban Shimon ben Gamliel, while Rabbi Yosei holds in accordance with the opinion of Rabbi Yehuda HaNasi.

PERSONALITIES

Rabbi Yirmeya – רַבִּי יִרְמְיָה: Rabbi Yirmeya, one of the leading third- and fourth-generation *amora'im*, was born in Babylonia and studied there in his youth, but he quickly immigrated to Eretz Yisrael. There he became a disciple of some of the most prominent Sages of the generation, who were the students of Rabbi Yoḥanan. Rabbi Yirmeya had a special dialectical method that exhibited his great acuity, and he would pose provocative questions to his teachers and colleagues. Since these questions gave the impression that Rabbi Yirmeya was seeking to undermine the accepted principles of halakhic dialectic, he was punished and even barred from the study hall for a brief period (see *Bava Batra* 23b). Rabbi Yirmeya's statements are quoted extensively in both the Babylonian Talmud and the Jerusalem Talmud, to the extent that in the Babylonian Talmud his sayings are often introduced by the expression: They say in the West, referring to Eretz Yisrael. As evidenced by the Gemara here, he held a measure of disdain for the scholars of Babylonia.

BACKGROUND

Foolish Babylonians – בַּבְלָאֵי טִפְּשָׁאֵי: Some Sages in Eretz Yisrael adopted a scornful attitude toward the scholarship of their Babylonian counterparts, believing the community in Eretz Yisrael possessed the authoritative tradition, while Babylonian Jews lacked expertise and their ideas were often unfounded. The Rambam writes in a responsum that this was so only in a specific period, when governmental decrees in Babylonia prevented proper Torah study, leading to the tradition becoming corrupted. Later generations of Babylonians are credited with a higher level of scholarship than the Sages of Eretz Yisrael (Ritva).

HALAKHA

He continues digging until he reaches bedrock – חוֹפֵר עַד שֶׁמַּגִּיעַ לַסֶּלַע: If it is known that there was a body buried in a particular place, but it is unknown if the body is still there, one searches for it until he reaches bedrock or virgin soil, at which point the area is assumed to be ritually pure (Rambam *Sefer Tahara, Hilkhot Tumat Met* 9:10).

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BACKGROUND

Gore each other – מְנַגְּחֵי אַהֲדֵדֵי: It is normal behavior for horned male animals to wrestle with one another, and it is likely that injuries and blemishes would not have been uncommon.



Male goats wrestling

NOTES

One who plucks the wool from an unblemished firstborn – הַתּוֹלֵשׁ צֶמֶר מִבְּכוֹר תָּם: This applies not only to hair that is plucked but also to hair that is shed (*Tosafot*, citing 26b).

וְרַבִּי אַסִי, מַאי טַעְמָא לָא אָמַר כְּרַבִּי חִיָּיא בַּר אַבָּא? אָמַר לָךְ: בְּשְׁלָמָא גַּבֵּי טוּמְאָה – אִיכָּא דְּאָמַר: בָּא עוֹרֵב וּנְטָלָהּ, בָּא עַכְבָּר וּנְטָלָהּ. אֶלָּא הָכָא – בַּעַל מוּם לְהֵיכָא אָזֵיל? וְאִידָךְ: אִימַּר מוּם עוֹבֵר הָוָה וְאִיתַּסִּי.

The Gemara asks: **And Rabbi Asi, what is the reason he did not state** the explanation **of Rabbi Ḥiyya bar Abba?** Rabbi Asi could have **said to you: Granted, with regard to impurity** one can say the impure object might no longer be there, as perhaps **a raven came and took it** or **a mouse came and took it. But here,** with regard to a blemished animal that became intermingled with unblemished animals, **where** could the **blemished** animal have **gone?** The Gemara asks: **And** how would **the other** *amora*, Rabbi Ḥiyya bar Abba, respond to this claim? He would **say** the blemish **was a temporary blemish and it was healed,** which is why there is no longer a blemished animal among the flock.

וְרַבִּי חִיָּיא בַּר אַבָּא מַאי טַעְמָא לָא אָמַר כְּרַבִּי אַסִי? אָמַר לָךְ: בְּשְׁלָמָא שָׂדֶה – דִּרְכָּהּ לְמִיקְבַּר בָּהּ, כִּי הֵיכִי דְּקָבַר בָּהּ הַאי – קָבַר אֱינָשׁ אַחֲרִינָא. אֶלָּא קָדָשִׁים – כֵּיוָן דִּבְדַקוּ לָן וְקַיְימִי, דַּרְכַּיְיהוּ לְמֵיפַל בְּהוּ מוּמָא? וְאִידָךְ: אַגַּב דִּמְנַגְּחֵי אַהֲדֵדֵי שְׁכִיחַ בְּהוּ מוּמָא.

And as for **Rabbi Ḥiyya bar Abba, what is the reason he did not state** the explanation **of Rabbi Asi?** Rabbi Ḥiyya bar Abba could have **said to you: Granted,** in the case of **a field it is normal** for people to **be buried in it,** and therefore Rabban Shimon ben Gamliel claims that **just as this** person **was buried in it,** so too, **another person** might have been **buried** there. Therefore, there is no reason to assume the grave that was found is the grave that was lost. **But** with regard to **sacrificial** animals, **once they were examined and they are** found to be whole, is it **normal for them to** suddenly **develop a blemish?** In such a case even the first *tanna* would not deem the animals prohibited, as it can be assumed they found the only blemished one. **And** what would **the other** *amora*, Rabbi Asi, say in response? **Since they gore each other,**[B] the development of **a blemish is** in fact **common among them.**

מֵיתִיבִי: הַתּוֹלֵשׁ צֶמֶר מִבְּכוֹר תָּם, אַף עַל פִּי שֶׁנּוֹלַד בּוֹ מוּם וּשְׁחָטוֹ – אָסוּר. טַעֲמָא – דְּתָם,

Rabbi Asi earlier said in the name of Reish Lakish that both Akavya ben Mahalalel and the Rabbis agree that if an expert did not deem the firstborn permitted for slaughter before its wool was shed, use of the wool is prohibited. The Gemara **raises an objection** from a *baraita*: With regard to **one who plucks the wool from an unblemished firstborn,**[N] **even though it** later **developed a blemish and** the owner then **slaughtered it,** use of the wool is **prohibited.** The Gemara infers: The **reason** this is the *halakha* is **that** the animal was **unblemished.**

Perek **III**
Daf **26** Amud **a**

הָא בַּעַל מוּם – שָׁרֵי, אַף עַל פִּי שֶׁלֹּא הִתִּירוֹ מוּמְחֶה! תַּנָּא, כָּל הֵיכָא דְּלָא הִתִּירוֹ מוּמְחֶה – ״תָּם״ קָרֵי לֵיהּ.

But in the case of **a blemished** firstborn, use of its wool is **permitted, even though an expert did not deem** the animal **permitted** for slaughter. This contradicts the statement of Rabbi Asi. The Gemara answers: It is possible that the ***tanna* of** that *baraita* **calls** the animal **unblemished wherever an expert did not** yet **deem** the firstborn **permitted** for slaughter, even if it was physically blemished.

לֵימָא כְּתַנָּאֵי: הַתּוֹלֵשׁ צֶמֶר מִבְּכוֹר תָּם, אַף עַל פִּי שֶׁנּוֹלַד בּוֹ מוּם וּשְׁחָטוֹ – אָסוּר. בְּכוֹר בַּעַל מוּם שֶׁתָּלַשׁ מִמֶּנּוּ וְאַחַר כָּךְ מֵת – עֲקִבְיָא בֶּן מַהֲלַלְאֵל מַתִּיר, וַחֲכָמִים אוֹסְרִים. אָמַר רַבִּי יְהוּדָה: לֹא בָּזֶה הִתִּיר עֲקִבְיָא בֶּן מַהֲלַלְאֵל, אֶלָּא בְּשִׁעֵר בְּכוֹר בַּעַל מוּם שֶׁנָּשַׁר וְהִנִּיחוֹ בַּחֲלוֹן, וְאַחַר כָּךְ שְׁחָטוֹ – בָּזֶה עֲקִבְיָא בֶּן מַהֲלַלְאֵל מַתִּיר וַחֲכָמִים אוֹסְרִין.

The Gemara remarks: **Let us say** that the interpretation of Reish Lakish is **the subject of** a dispute between ***tanna'im,*** as the *baraita* states: With regard to **one who plucks the wool from an unblemished firstborn, even though it** later **developed a blemish and** the owner **slaughtered it,** use of the wool is **prohibited.** In the case of **a blemished firstborn from which one plucked** wool, **and it subsequently died, Akavya ben Mahalalel deems** the wool **permitted and the Rabbis deem** it **prohibited. Rabbi Yehuda said:** It was **not with regard to that** case **that Akavya ben Mahalalel deemed** use of the wool **permitted. Rather,** it was in a case **of the hair of a blemished firstborn** animal **that shed** from the animal **and one placed** the hair **in a compartment, and thereafter one slaughtered** the animal. **In that** case **Akavya ben Mahalalel deems** use of the wool **permitted, and the Rabbis deem** its use **prohibited.**

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אָמַר רַבִּי יוֹסֵי: מוֹדֶה אַבָּא חֲלַפְתָּא בָּזֶה שֶׁהוּא מוּתָּר. אֲבָל בְּיִיחוּד אָמְרוּ חֲכָמִים: יְנִיחֻנּוּ בַּחֲלוֹן שֶׁמָּא יֵשׁ תִּקְוָה; שְׁחָטוֹ – דִּבְרֵי הַכֹּל מוּתָּר, מֵת – עֲקִבְיָא בֶּן מַהֲלַלְאֵל מַתִּיר, וַחֲכָמִים אוֹסְרִים.

The *baraita* continues: **Rabbi Yosei says:** My **father, Ḥalafta,**[P] **concedes** to Akavya ben Mahalalel **in this** case of a slaughtered firstborn **that** use of the wool **is permitted. Indeed** [*aval*],[L] **the Rabbis said explicitly: One places it in a compartment,** as **perhaps there is a hope** that use of the wool will ultimately be permitted, since if **he slaughters** the animal **all agree** that use of the wool is **permitted.** But if the animal **dies** by other means, **Akavya ben Mahalalel deems** use of the wool **permitted and the Rabbis deem** it **prohibited.**

רַבִּי יוֹסֵי הֵיינוּ תַּנָּא קַמָּא! אֶלָּא לָאו הִתִּירוּ מוּמְחֶה אִיכָּא בֵּינַיְיהוּ,

The Gemara raises a difficulty: If that is the explanation of their dispute, the opinion of **Rabbi Yosei is** identical to the opinion of **the first *tanna*** in the *baraita*, as both hold that use of the wool of a slaughtered blemished firstborn is permitted and the dispute between Akavya ben Mahalalel and the Rabbis applies to a case where the animal dies by other means. **Rather, is it not** correct to say the dispute **between them** concerns the requirement that **an expert deem** the animal **permitted** for slaughter?

דְּתַנָּא קַמָּא סָבַר: הִתִּירוּ מוּמְחֶה – אִין, וְאִי לָא – לָא, וְאָתָא רַבִּי יוֹסֵי לְמֵימַר: אַף עַל גַּב דְּלָא הִתִּירוּ מוּמְחֶה!

The Gemara elaborates: **As the first *tanna* holds:** If **an expert deemed** the animal **permitted** before its wool was shed, **then yes,** use of the wool is permitted after the animal has been slaughtered; **but if not,** then use of the wool is **not** permitted. **And Rabbi Yosei comes to say** that **even** in a case **where an expert did not deem** the firstborn **permitted** for slaughter before its wool was shed, use of the wool is still permitted. If so, the interpretation of Reish Lakish is the subject of the dispute between the first *tanna* and Rabbi Yosei: The first *tanna* agrees with that opinion and Rabbi Yosei rejects it.

אֲמַר רָבָא: לָא, דְּכוּלֵּי עָלְמָא אִי הִתִּירוּ מוּמְחֶה – אִין, אִי לָא הִתִּירוּ – לָא. וְשָׁלֹשׁ מַחֲלוֹקוֹת בַּדָּבָר, דְּתַנָּא קַמָּא סָבַר: פְּלִיגִי בְּמֵת, וְהוּא הַדִּין לִשְׁחָטוֹ, וְהַאי דְּקָמִיפַּלְגִי בְּמֵת – לְהוֹדִיעֲךָ כֹּחוֹ דַּעֲקִבְיָא.

Rava said: No, the interpretation of Reish Lakish is not the subject of their dispute, **as everyone agrees that if an expert deemed** the animal **permitted** before its wool was shed, then **yes,** use of the wool is permitted, but **if** an expert **did not deem** the animal **permitted** beforehand then the use of its wool is **not** permitted. **And there are three disputes concerning** this **matter, as the first *tanna* holds:** Akavya ben Mahalalel and the Rabbis **disagree** with regard to a case where the firstborn **died, and the same is true,** i.e., they disagree, in a case where **he slaughtered it. And** the reason **that** the first *tanna* states **they disagree** specifically in a case where it **died** is **to convey to you the far-reaching** nature of the opinion **of Akavya,** i.e., that he deems use of the wool permitted even if the animal was not slaughtered.

וְרַבִּי יְהוּדָה סָבַר: בְּמֵת – דִּבְרֵי הַכֹּל אָסוּר, כִּי פְּלִיגִי בִּשְׁחָטוֹ. וְאָתָא רַבִּי יוֹסֵי לְמֵימַר: בִּשְׁחָטוֹ – דִּבְרֵי הַכֹּל מוּתָּר, כִּי פְּלִיגִי – בְּמֵת.

And Rabbi Yehuda holds: With regard to a firstborn that **died, all,** i.e., Akavya ben Mahalalel and the Rabbis, **agree** that use of the wool is **prohibited,** and **when they disagree** it is with regard to a case where the owner **slaughtered** the animal. **And Rabbi Yosei comes to say: Where he slaughtered it, all agree** that use of the wool is **permitted,** and **when they disagree** it is with regard to a case where the animal **died.**

אָמַר רַב נַחְמָן: הֲלָכָה כְּרַבִּי יְהוּדָה, הוֹאִיל וּתְנַן בִּבְחִירָתָא כְּוָותֵיהּ. דְּתָנַן: שִׂעֲרָהּ בְּכוֹר בַּעַל מוּם שֶׁנָּשַׁר וְהִנִּיחוֹ בַּחֲלוֹן, וְאַחַר כָּךְ שְׁחָטוֹ – עֲקִבְיָא בֶּן מַהֲלַלְאֵל מַתִּיר, וַחֲכָמִים אוֹסְרִין.

Rav Naḥman says: The ***halakha*** is **in accordance with** the opinion of **Rabbi Yehuda,**[H] **since we learned** a mishna **in our preferred** tractate[N] **in accordance with his** opinion. **As we learned** in a mishna (*Eduyyot* 5:6): In the case of **the hair of a blemished firstborn** animal **that shed** from the animal **and one placed** the hair **in a compartment, and thereafter he slaughtered** the animal, **Akavya ben Mahalalel deems** use of the wool **permitted and the Rabbis deem** its use **prohibited** even after the animal's death.

PERSONALITIES

Father Ḥalafta – אַבָּא חֲלַפְתָּא: Rabbi Ḥalafta of Tzippori, who was born before the destruction of the Second Temple, engaged in halakhic discussions with Rabban Gamliel the Elder and lived many years after the Temple was destroyed. Rabbi Ḥalafta was the most prominent Sage in Tzippori, where he instituted several customs and *halakhot* and in addition was a tanner and merchant of animal hides.

Although he engaged in halakhic discussions with Rabbi Yoḥanan ben Nuri, most of his halakhic statements were cited by his son, Rabbi Yosei ben Ḥalafta, whose name generally appears without the patronymic. Rabbi Yosei revered his father, and cited him as a paradigm of piety and righteousness. Some say that in addition to his famous son Rabbi Yosei, Rabbi Ḥalafta had another son, Rabbi Shimon ben Ḥalafta. Others claim that Rabbi Shimon ben Ḥalafta was his great-grandson.

LANGUAGE

Indeed [*aval*] – אֲבָל: This term is generally used by the Sages to mean but or although. In rabbinic usage there are occasions where the word has a different connotation, e.g., indeed or in truth. The same applies to the Aramaic translation of the Bible, in the few cases where this word appears. In this context, it is closely related to the Arabic بلى, *balā*, which also means indeed or in truth.

HALAKHA

The *halakha* is in accordance with Rabbi Yehuda – הֲלָכָה כְּרַבִּי יְהוּדָה: One may not derive benefit from hair that was shorn or shed from a blemished firstborn, even once the animal has been slaughtered. The *halakha* is in accordance with Rabbi Yehuda's interpretation of the statement of the Rabbis (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:11 and *Sefer Avoda*, *Hilkhot Me'ila* 1:10; *Shulḥan Arukh*, *Yoreh De'a* 308:1).

NOTES

Since we learned a mishna in our preferred tractate – הוֹאִיל וּתְנַן בִּבְחִירָתָא: This is referring to tractate *Eduyyot*, which includes numerous testimonies, *eduyyot*, attested to by the Sages before their colleagues with regard to established *halakhot* that they heard and unique situations they witnessed. The name of the tractate can also be interpreted as a variation of the term *idit*, used in *halakha* for superior-quality land. In other words, this tractate is of the highest quality in terms of its halakhic authority.

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אָמַר רַב נַחְמָן בַּר יִצְחָק: מַתְנִיתִין נַמִּי דַּיְקָא, דְּתָנֵן: צֶמֶר הַמְּדוּלְדָּל בִּבְכוֹר, אֶת שֶׁנִּרְאֶה עִם הַגִּיזָּה – מוּתָּר, וְאֶת שֶׁאֵינוֹ נִרְאֶה – אָסוּר.

Rav Naḥman bar Yitzḥak says: The mishna is also precisely formulated so that this conclusion can be inferred, **as we learned** in the latter clause of the mishna: With regard to **wool** that was not completely shed **which is dangling from a firstborn** animal, **that which appears** to be part **of the fleece** is **permitted** when the animal is shorn after its death, **and that which does not appear** to be part of the fleece is **prohibited.**

מַנִּי? אִילֵימָא רַבִּי יוֹסֵי; וּבְמַאי? אִילֵימָא בְּשְׁחָטוֹ – בֵּין עֲקַבְיָא בֵּין רַבָּנַן, אִידֵי וְאִידֵי מְשְׁרָא שָׁרֵי!

Rav Naḥman bar Yitzḥak explains the proof: In accordance with **whose** opinion is this ruling? **If we say** it is in accordance with the opinion of **Rabbi Yosei,** that is difficult: **But in what** case did he issue this ruling? **If we say** it was in a case **where he slaughtered it** that cannot be correct, as **whether** the *halakha* follows the opinion of **Akavya** or **whether** it follows the opinion of **the Rabbis,** in both **this** case of wool that appears to be part of the fleece **and that** case where it does not, the use of the wool is **permitted.**

וְאֶלָּא בְּמֵת; וְאִי רַבָּנַן – אִידֵי וְאִידֵי מֵיסַר אָסְרִי! וְאִי עֲקַבְיָא – אִיפְּכָא מִיבָּעְיָא לֵיהּ: נִרְאֶה עִם הַגִּיזָּה – אָסוּר, דְּמִיתָּה קָאָסְרָה לֵיהּ; אֵינוֹ נִרְאֶה עִם הַגִּיזָּה – מוּתָּר, דְּמֵעִיקָּרָא תְּלִישׁ!

Rather, if one says this is referring to a case **where** the animal **died,** that too is difficult. **But** that cannot be correct either, since **if** the *halakha* is in accordance with **the Rabbis,** then both **this** wool **and that** wool are **prohibited. And if** the *halakha* is in accordance with **Akavya,** then the mishna **should have** stated the **opposite** ruling: If the dangling wool **appears** to be part **of the fleece** it is **prohibited, as** the **death** of the animal **renders it prohibited** because it is considered attached to the animal; if it **does not appear** to be part **of the fleece** it is **permitted, as it was** considered **detached from the beginning,** before the animal died.

אֶלָּא פְּשִׁיטָא – רַבִּי יְהוּדָה; וּבְמַאי? אִילֵימָא בְּמֵת – בֵּין לְעֲקַבְיָא בֵּין לְרַבָּנַן, אִידֵי וְאִידֵי מֵיסַר אָסְרִי!

Rather, it is **obvious** that this clause of the mishna is in accordance with the opinion of **Rabbi Yehuda. And in what** case does the mishna's ruling apply? **If we say** it is referring **to** a case where the animal **died,** then **whether** the *halakha* is in accordance with the opinion of **Akavya** or **whether** it is in accordance with the opinion of **the Rabbis,** in both **this** case of wool that appears to be part of the fleece **and that** case where it does not, the use of the wool is **prohibited.**

אֶלָּא לָאו בְּשְׁחָטָהּ; וְאִי עֲקַבְיָא – אִידֵי וְאִידֵי מְשְׁרָא שָׁרֵי! אֶלָּא לָאו רַבָּנַן הִיא, וּשְׁמַע מִינָּהּ: בְּשְׁחָטוֹ פְּלִיגִי, שְׁמַע מִינָּהּ.

Rather, is it not referring **to** a case where **he slaughtered** the animal? **And** consequently, **if** the mishna is in accordance with the opinion of **Akavya,** then in both **this** case of wool that appears to be part of the fleece **and that** case where it does not, use of the wool **is permitted. Rather, is it not** correct to say the mishna **is** in accordance with the opinion of **the Rabbis? And** accordingly, one may **conclude from it** that Akavya and the Rabbis **disagree in** a case where **he slaughtered** the animal? The Gemara affirms: Indeed, **conclude from it** that this is so.

בָּעֵי רַבִּי יַנַּאי: הַתּוֹלֵשׁ צֶמֶר מֵעוֹלָה תְּמִימָה, מַהוּ? תּוֹלֵשׁ, מִי אִיכָּא מַאן דְּשָׁרֵי? אֶלָּא: צֶמֶר שֶׁנִּתְלַשׁ מֵעוֹלָה תְּמִימָה, מַהוּ?

§ **Rabbi Yannai raises a dilemma:** With regard to **one who plucks wool from an unblemished burnt offering**[NH] which was later slaughtered, **what is** the *halakha*? The Gemara expresses surprise: If one intentionally violates a prohibition and **plucks** the wool from an unblemished consecrated animal, **is there anyone who deems** it **permitted?** All agree that use of the wool is prohibited in such a case. **Rather,** Rabbi Yannai's question was: With regard to **wool that was torn out** by itself **from an unblemished burnt offering, what is** the *halakha*?

דְּחַטָּאת וְאָשָׁם לָא תִּיבָּעֵי לָךְ, דְּכֵיוָן דְּלִכַּפָּרָה אָתוּ – לָא מַשְׁהוּ לְהוּ; דְּבְכוֹר וּמַעֲשֵׂר נַמִּי, דְּכֵיוָן דְּלָאו לְכַפָּרָה אָתוּ – מַשְׁהוּ לְהוּ; כִּי תִּיבָּעֵי לָךְ דְּעוֹלָה, מַאי? כֵּיוָן

The Gemara elaborates: **Do not raise the dilemma** concerning the wool **of a sin offering and a guilt offering.**[H] **Since** these offerings **come for atonement** the owner **does not keep them** longer than necessary, and therefore there is no reason to deem the wool prohibited. Likewise, with regard to the wool **of a firstborn and** an animal **tithe** offering[H] there is **also** no dilemma. **Since they do not come for atonement one** might **keep them** longer than necessary, and therefore the wool is prohibited in order to prevent one from violating the prohibition against shearing the animal or using it for labor. Rather, **when you raise the dilemma,** it is with regard to the wool **of a burnt offering. What** is the *halakha*? Does one say that **since**

NOTES

One who plucks wool from an unblemished burnt offering – הַתּוֹלֵשׁ צֶמֶר מֵעוֹלָה תְּמִימָה: It is prohibited to derive benefit from the wool of a burnt offering until its blood has been presented on the altar, at which point its hide and any wool attached to it is permitted to the priests. The Gemara is discussing a case where the burnt offering was slaughtered, which rendered the wool left on its body permitted. The question is with regard to the status of wool that it shed during its lifetime.

HALAKHA

One who plucks wool from an unblemished burnt offering – הַתּוֹלֵשׁ צֶמֶר מֵעוֹלָה תְּמִימָה: If hair is detached from an unblemished burnt offering it is uncertain whether or not it is prohibited to derive benefit from it, as Rabbi Yannai's dilemma is left unresolved. If the hair was detached while the animal was blemished it is permitted to derive benefit from it, as is the *halakha* with regard to other sacrificial animals apart from a firstborn and one brought as animal tithe. All this applies in a case where the owner did not pluck the hair by hand, but if he removed the hair by hand it is forbidden (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:10, and Mahari Kurkus there).

Do not raise the dilemma concerning the wool of a sin offering and a guilt offering – דְּחַטָּאת וְאָשָׁם לָא תִּיבָּעֵי לָךְ: With regard to wool that is detached from a sin offering or a guilt offering, even if it is unblemished at the time, one is permitted to derive benefit from it after the offering has been slaughtered due to a blemish. The reason is that one does not delay sacrificing either of these offerings, as they are brought for atonement (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:10).

The wool of a firstborn and an animal tithe offering – דְּבְכוֹר וּמַעֲשֵׂר: It is prohibited to derive benefit from hair that was plucked or that fell from an unblemished firstborn or animal tithe offering, even after the animal has been slaughtered due to a blemish. This is a decree to prevent the owner from delaying sacrifice, as these offerings are not brought for atonement (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 1:10).

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דְּעִיקָּר לָאו לְכַפָּרָה אָתֵי – מַשְׁהֵי לָהּ אוֹ דִלְמָא: כֵּיוָן דְּעוֹלָה נַמֵי מְכַפְּרָא אַעֲשֵׂה – לָא מַשְׁהֵי לָהּ?

being brought for atonement is **not** its **primary** function, there is a concern that **one** might **keep it? Or perhaps, since a burnt offering also effects atonement for** neglecting to perform **a positive** mitzva, **one does not keep** the animal longer than necessary.

תָּא שְׁמַע: הַתּוֹלֵשׁ צֶמֶר מִבְּכוֹר תָּם, אַף עַל פִּי שֶׁנּוֹלַד בּוֹ מוּם, שְׁחָטוֹ – אָסוּר. טַעֲמָא דְּתוֹלֵשׁ, הָא נִתְלַשׁ – שָׁרֵי; וְכָל שֶׁכֵּן עוֹלָה, דְּלָא מַשְׁהֵי לָהּ!

The Gemara suggests: **Come** and **hear** a resolution from a *baraita*: With regard to **one who plucks the wool from an unblemished firstborn, even though it** later **developed a blemish** and the owner then **slaughtered it,** use of the wool is **prohibited.** The Gemara infers: The **reason** use of the wool is prohibited is **because he plucks** it. **But** if **it was torn out** not by human intervention it is **permitted. And** this is correct **all the more so** with regard to **a burnt offering, where one does not keep** the animal any longer than necessary.

הוּא הַדִּין אֲפִילּוּ נִתְלַשׁ נַמִי אָסוּר, וְהַאי דְּקָתָנֵי ״תּוֹלֵשׁ״ – לְהוֹדִיעֲךָ כֹּחוֹ דְּעַקְבָיָא, דְּבְבַעַל מוּם – אֲפִילּוּ בְּתוֹלֵשׁ נַמִי שָׁרֵי.

The Gemara rejects this proof: Actually, **the same is true even** if the wool of an unblemished firstborn animal **was torn out** by some other means; it is **also prohibited. And** the reason **that** the *baraita* **teaches** the *halakha* using the term: One who **plucks, is to convey to you the far-reaching** nature of the opinion **of Akavya** ben Mahalalel, **as** he maintains that in the case of **a blemished** animal, discussed in the latter clause of the *baraita*, **even** if **one plucks** the wool it is **permitted.** Since the latter clause discusses a case where one plucked the wool himself, it is inferred that the former clause discusses the same situation.

וְהָאֲנַן ״נָשַׁר״ תְּנַן! תְּנָא ״נָשַׁר״ – לְהוֹדִיעֲךָ כֹּחָן דְּרַבָּנַן, תְּנָא ״תּוֹלֵשׁ״ – לְהוֹדִיעֲךָ כֹּחוֹ דְּעַקְבָיָא.

The Gemara asks: **But didn't we learn** in the mishna that the hair **was shed** rather than plucked? The Gemara explains that the mishna **taught** a case where the hair of the blemished animal **was shed** in order **to convey to you the far-reaching** nature of the opinion **of the Rabbis,** who deem the wool prohibited even in such a case. Conversely, the *baraita* **taught** a case where **one plucks** the hair in order **to convey to you the far-reaching** nature of the opinion of **Akavya.**

״צֶמֶר הַמְּדוּלְדָּל״ כו׳. הֵיכִי דָּמֵי ״אֵינוֹ נִרְאֶה עִם הַגִּיזָּה״? אָמַר רַבִּי אֶלְעָזָר אָמַר רֵישׁ לָקִישׁ: כָּל שֶׁעִיקָּרוֹ הָפוּךְ כְּלַפֵּי רֹאשׁוֹ. רַב נָתָן בַּר אוֹשַׁעְיָא אָמַר: כָּל שֶׁאֵינוֹ מִתְמַעֵךְ עִם הַגִּיזָּה.

§ The mishna teaches that it is permitted to derive benefit from **wool that is dangling** from a firstborn but was not completely shed if it appears to be part of the fleece when the animal is shorn after death, but otherwise it is prohibited. The Gemara inquires: **What is considered: That which does not appear** to be part **of the fleece? Rabbi Elazar says** that **Reish Lakish says:** This includes **any** strand of wool **whose root is overturned** and is facing **toward the top,**[H] i.e., outward. **Rav Natan bar Oshaya says:** This includes **any** strand of wool **that is not compressed** together **with** the rest of **the fleece,** i.e., it sticks out when the fleece is pressed down.

וְרֵישׁ לָקִישׁ מַאי טַעְמָא לָא אָמַר כְּרַב נָתָן בַּר אוֹשַׁעְיָא? אָמַר רַבִּי אִילְעָא, קָסָבַר רֵישׁ לָקִישׁ: לְפִי שֶׁאִי אֶפְשָׁר לִגְיזָּה בְּלֹא נִימִין הַמְּדוּלְדָּלוֹת.

And what is the reason Reish Lakish did not state his explanation **in accordance with** the opinion of **Rav Natan bar Oshaya,** whose explanation is the more straightforward meaning of the phrase: That which does not appear to be part of the fleece? **Rabbi Ile'a says: Reish Lakish holds** that the Sages did not deem strands of wool that are not compressed together with the rest of the fleece prohibited, **because it is impossible for** there to be **fleece without dangling hairs.** If Rav Natan bar Oshaya's explanation were accepted, it would never be permitted to use such fleece of a dead firstborn animal. Consequently, Reish Lakish explains the statement of the mishna in a more lenient manner.

HALAKHA

Any strand of wool whose root is overturned toward the top – כָּל שֶׁעִיקָּרוֹ הָפוּךְ כְּלַפֵּי רֹאשׁוֹ: If one slaughtered a firstborn animal that had wool dangling from it, it is permitted for him to derive benefit from the wool that appears to be part of the fleece. Conversely, he may not derive benefit from the wool that does not appear to be part of the fleece, i.e., any strand of wool whose root is overturned and is facing toward the top of the strand. The *halakha* is in accordance with the opinion of Reish Lakish, as he is considered a greater Sage than Rav Natan, and his reasoning is provided. Some of the early commentaries (see Ramban and *Tur*) rule stringently (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:12, and see *Kesef Mishne* and Mahari Kurkus there; *Shulḥan Arukh*, *Yoreh De'a* 308:2).

הדרן עלך הלוקח בהמה

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Summary of **Perek III**

The chapter started as a direct continuation of the previous chapter, which addressed various cases of uncertainties involving the firstborn offspring of a kosher animal. It then focused primarily on the prohibition against shearing firstborns.

It was concluded that one who purchases a female animal from a gentile must treat its next male offspring as at least an uncertain firstborn, unless it is known that the animal had given birth previously. This is true regardless of the age at which the animal is purchased. The offspring of an animal bought from a Jew is completely non-sacred, as it is assumed the seller would have notified the buyer if the animal had not already given birth.

The chapter then addressed the definition of giving birth with respect to the mitzva of the firstborn. In a small animal birth is defined as the expulsion of a murky discharge, in a large animal it is the emergence of an afterbirth, and in a woman it is the appearance of a fetal sac or an afterbirth. It was also determined that an animal does not become pregnant within thirty days of expelling the type of murky discharge that exempts it from having its future offspring counted a firstborn. Therefore, if it was impregnated within thirty days of a discharge, that discharge does not exempt the animal. A large animal that expels a mass of congealed blood is also exempt, as it is assumed that the mass originated from a fetus. Nevertheless, it does not impart ritual impurity through contact or carrying, because the embryo itself was dissolved and nullified. Clarifying this *halakha* led to a discussion concerning whether a substance nullified by a majority is considered completely nullified, or whether it is merely a dormant component whose status can be revived.

The Sages explored whether the fact that an animal is nursing an offspring indicates it has given birth, and concluded that one who purchases a nursing animal from a gentile may assume it has already given birth. Furthermore, they sought to clarify whether it may be assumed that the nursing young animal is the offspring of the animal from which it is nursing. This involved an analysis of the specifics of the principle that the *halakha* follows the majority. It was determined that this principle applies absolutely only in the case of an evident majority, i.e., one that is extant; if the majority is based solely on general statistical information, there are exceptions to this principle.

In the second part of the chapter the Sages examined the prohibition against shearing a firstborn animal. It was concluded that although shearing the hair is prohibited, plucking it is permitted if one does not intend to derive benefit from the hair but merely to clear it away in order to examine a blemish. Furthermore, it is permitted to pluck the hair on a Festival in order to facilitate the animal's slaughter, as this is considered uprooting an item from its place of growth in an unusual manner.

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Although the hair of a blemished firstborn is permitted by Torah law, the Sages issued a decree that it is forbidden even after the animal's death, due to the concern that the owner might detain the animal longer than necessary and come to violate a Torah prohibition by shearing it or performing labor with it. The extent to which this prohibition applies is a matter of dispute, but the *halakha* is that any hair shed during the animal's lifetime is prohibited in all cases. If there is detached wool that remains on a slaughtered animal's body, it is permitted if it appears to be part of the fleece.

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Introduction to **Perek IV**

All the firstborn males that are born of your herd and of your flock you shall sanctify to the Lord your God; you shall do no work with the firstborn of your ox, nor shear the firstborn of your flock. You shall eat it before the Lord your God year by year in the place that the Lord shall choose, you and your household. And if there be any blemish in it, lameness, or blindness, any ill blemish whatsoever, you shall not sacrifice it to the Lord your God. You shall eat it within your gates; the impure and the pure may eat it alike, as the gazelle, and as the hart. Only you shall not eat its blood; you shall pour it out upon the ground as water.

(Deuteronomy 15:19–23)

And the Lord spoke to Aaron: And I have given you the charge of My wave offerings; even of all the sacred items of the children of Israel I have given them to you for a consecrated portion, and to your sons, as a due forever.

(Numbers 18:8)

But the firstborn of an ox, or the firstborn of a sheep, or the firstborn of a goat, you shall not redeem; they are holy: You shall sprinkle their blood against the altar, and shall make their fat smoke for an offering made by fire, for a pleasing aroma to the Lord. And their flesh shall be yours, as the breast of waving and as the right thigh, it shall be yours.

(Numbers 18:17–18)

You shall not delay to offer of the fullness of your harvest, and of the outflow of your presses; you shall give to Me your firstborn sons. So you shall do with your oxen, and with your sheep; seven days it shall be with its mother; on the eighth day you shall give it to Me.

(Exodus 22:28–29)

This chapter addresses the topic of firstborn kosher animals, primarily how they are given to a priest and how the priest must treat them.

With regard to a firstborn son the Torah states that redemption must be performed when the baby reaches thirty days of age. With regard to a kosher species of animal the Torah does not say when it must be given to a priest. Is there a fixed time? Furthermore, as the owner of the animal has the right to give it to any priest he wishes, may a priest pay the owner in some way to persuade the owner to select him?

The Torah places a time limit within which the priest must eat the firstborn: "You shall eat it before the Lord your God year by year in the place that the Lord shall choose," i.e., in Jerusalem. The meaning of the expression "year by year" is unclear. Does this mean that the animal must be eaten within its first year, or perhaps within the calendar year in which it is born? Furthermore, does this restriction apply only to an unblemished firstborn, which is sacrificed in Jerusalem, or does it also apply to a blemished firstborn that is eaten elsewhere?

The determination of a firstborn as blemished has significant ramifications. Slaughtering unblemished offerings outside the Temple is prohibited, and at the time that the Temple existed this act was punishable with *karet*. For this reason, declaring a firstborn animal blemished requires specific expertise and experience in determining the differences between permanent and temporary blemishes. The Sages decreed

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that only an expert had license to rule on blemishes, and any firstborn that was slaughtered without expert advice is forbidden. In light of this *halakha*, the chapter discusses a case where a priest slaughtered the animal, and only subsequently an expert declared that it was blemished.

If a firstborn was slaughtered without the ruling of an expert, causing the priest financial loss, is he entitled to compensation? In this context, the chapter examines similar questions with regard to erroneous halakhic rulings. Are such rulings valid? What is the liability of the one who issued such a ruling? If a judge errs in judgment, must he compensate for the loss he caused? Likewise, if a judge accepts payment to issue his ruling, is it valid? Are there times when it is permitted for a judge to receive payment for judging a case?

Establishing a firstborn animal as blemished also has financial implications. An unblemished firstborn must be taken by the priest to Jerusalem and sacrificed there, whereas a blemished firstborn may be slaughtered and eaten anywhere. After the destruction of the Temple, when it was no longer possible to sacrifice unblemished firstborns, the priest would have to continue to care for the animal until it became blemished, and until then he could derive no benefit from it. Once it was blemished he could slaughter it and eat it, or sell its meat. Given the potential benefit this ruling provides to a priest, may an expert priest rule with regard to his own firstborn animals to permit himself to slaughter them, or is he considered biased and therefore unfit to issue such a ruling?

The Sages realized that there were priests who were suspected either of inflicting a wound resulting in a blemish in a firstborn animal, which is prohibited by Torah law, or of selling the meat of a firstborn for a high price, as though it were normal meat. If a priest has been found suspect of performing such actions, to what extent may one trust him with related issues?

The chapter ends with a discussion of those who are suspected of selling prohibited items, e.g., produce of the Sabbatical Year or tithes. Which items may one purchase from them and which may one not purchase? If one is suspected of transgressing a certain prohibition, is he also suspected of violating other prohibitions? Is there a difference between various prohibitions in this regard? Finally, if he repents, to what extent may he then be trusted, and what is his subsequent status?

These are the main topics explored in this chapter.

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מתני׳ עַד כַּמָּה יִשְׂרָאֵל חַיָּבִין לְהַטְפִּיל בַּבְּכוֹר? בִּדַּקָּה – שְׁלֹשִׁים יוֹם, וּבִגַּסָּה – חֲמִשִּׁים יוֹם. רַבִּי יוֹסֵי אוֹמֵר: בִּדַּקָּה – שְׁלֹשָׁה חֳדָשִׁים. אָמַר לוֹ הַכֹּהֵן בְּתוֹךְ הַזְּמַן: ״תְּנֵהוּ לִי״ – הֲרֵי זֶה לֹא יִתְּנֶנּוּ לוֹ. וְאִם בַּעַל מוּם הוּא, וְאָמַר לוֹ: ״תְּנֵהוּ לִי שֶׁאוֹכְלֶנּוּ״ – מוּתָּר. וּבִשְׁעַת הַמִּקְדָּשׁ, אִם הָיָה תָּמִים, אָמַר לוֹ: ״ת�ֵּן וְאַקְרִבֶנּוּ״ – מוּתָּר.

MISHNA **Until when must an Israelite tend to** and raise **a firstborn**[NH] animal before giving it to the priest? **With regard to a small animal,** e.g., a sheep or goat, it is **thirty days, and with regard to a large animal,** e.g., cattle, it is **fifty days. Rabbi Yosei says: With regard to a small animal,** it is **three months.** If **the priest said to** the owner **within that period: Give it to me, that** owner **may not give it to him. And if it is a blemished** firstborn **and** the priest **said to him: Give it to me so I may eat it,**[H] it is **permitted** for the owner to give it to him. **And at the time** that **the Temple** is standing, **if it is unblemished** and the priest **said to him: Give it to me and I will sacrifice it,** it is **permitted** for the owner to give it to him.

הַבְּכוֹר נֶאֱכָל שָׁנָה בְּשָׁנָה, בֵּין תָּם בֵּין בַּעַל מוּם, שֶׁנֶּאֱמַר: ״לִפְנֵי ה׳ אֱלֹהֶיךָ תֹּאכְלֶנּוּ שָׁנָה בְּשָׁנָה״. נוֹלַד לוֹ מוּם בְּתוֹךְ שְׁנָתוֹ – רַשַּׁאי לְקַיְּימוֹ כָּל שְׁנֵים עָשָׂר חֹדֶשׁ. לְאַחַר שְׁנֵים עָשָׂר חֹדֶשׁ – אֵינוֹ רַשַּׁאי לְקַיְּימוֹ אֶלָּא שְׁלֹשִׁים יוֹם.

The firstborn animal **is eaten year by year,**[H] i.e., within its first year, **whether** it is **blemished** or **whether** it is **unblemished, as it is stated: "You shall eat it before the Lord your God year by year"** (Deuteronomy 15:20). If **a blemish developed within its** first **year,**[H] it is permitted for the owner **to maintain** the animal for the **entire twelve months.** If a blemish developed **after twelve months** have passed, it is permitted for the owner **to maintain** the animal for **only thirty days.**

גמ׳ מְנָהֲנֵי מִילֵּי? אָמַר רַב כָּהֲנָא, דְּאָמַר קְרָא: ״בְּכוֹר בָּנֶיךָ תִּתֶּן לִי״ – ״כֵּן תַּעֲשֶׂה לְצֹאנֶךָ״.

GEMARA The mishna teaches that an Israelite must raise a firstborn animal for thirty or fifty days, depending on the type of animal, before giving it to a priest. The Gemara asks: **From where are these matters** derived? **Rav Kahana said:** They are derived from a verse, **as the verse states:** "You shall not delay to offer of the fullness of your harvest, and of the outflow of your presses; **you shall give to Me your firstborn sons. So you shall do** with your oxen, and **with your sheep;** seven days it shall be with its mother, on the eighth day you shall give it to Me" (Exodus 22:28–29). The second part of verse 28 is juxtaposed to the second animal mentioned in verse 29. This juxtaposition teaches that just as a firstborn son is redeemed when he is thirty days old (Numbers 18:16), so too a sheep is given to the priest only when it is thirty days old.

״מְלֵאָתְךָ וְדִמְעֲךָ לֹא תְאַחֵר״ – ״כֵּן תַּעֲשֶׂה לְשׁוֹרֶךָ״.

The verses also state: **"You shall not delay the fullness of your harvest, and of the outflow of your presses**[N] **... So you shall do with your oxen"** (Exodus 22:28–29). Just as the first fruits are brought on the festival of *Shavuot*, fifty days after Passover, so too the firstborn oxen are given to a priest when they are fifty days old. Here, the first part of verse 28 is juxtaposed with the first animal mentioned in verse 29.

NOTES

Until when must an Israelite tend to a firstborn – עַד כַּמָּה יִשְׂרָאֵל חַיָּבִין לְהַטְפִּיל בַּבְּכוֹר: Although the Gemara cites sources from the Torah with regard to these time periods, the Rambam's Commentary on the Mishna states that the main rationale is that the gifts must be given to the priests as one presents a gift to a king, i.e., in the best possible manner. Therefore, a priest is not given an item that requires effort or toil for its care. The periods of time detailed here are the times during which these animals require much care (see *Bava Metzia* 69a).

You shall not delay the fullness of your harvest and of the outflow of your presses – מְלֵאָתְךָ וְדִמְעֲךָ לֹא תְאַחֵר: Rashi explains that the term "your fullness" is referring to first fruits that ripen early before Passover, i.e., barley. The first fruits are brought only after the two loaves have been brought on *Shavuot*, which is fifty days after Passover (see *Bikkurim* 1:9 and *Temura* 4a). The Rambam's Commentary on the Mishna explains that the derivation is from the phrase "shall not delay." This means that one violates the prohibition against delaying only after the passage of time from one Festival to another, as this is considered a period of delay for one who vowed to sacrifice an offering. The shortest time between any two Festivals is the fifty days between Passover and *Shavuot*.

HALAKHA

Until when must an Israelite tend to and raise a firstborn – עַד כַּמָּה יִשְׂרָאֵל חַיָּבִין לְהַטְפִּיל בַּבְּכוֹר: A firstborn animal is not given to a priest immediately upon its birth, as this is not a respectful manner of giving a gift. Rather, the owner must tend to the animal until it has grown somewhat, at which point he may give it to a priest. Until when must an Israelite tend to a firstborn animal? In the case of a small animal he must tend it for thirty days; in the case of a large animal, fifty days. This ruling is in accordance with the unattributed opinion in the mishna (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:14; *Shulḥan Arukh*, *Yoreh De'a* 306:2).

Give it to me…so I may eat it – תְּנֵהוּ לִי...שֶׁאוֹכְלֶנּוּ: If a priest said to the owner: Give me the firstborn animal during this period and I will tend to it myself, the owner may not give it to him. This is considered similar to the case of a priest who assists at the threshing floor, who may not receive the priestly gifts as his wages. If the animal was blemished and the priest said: Give it to me so that I may eat it immediately, it is permitted for the owner to give it to him (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:14; *Shulḥan Arukh*, *Yoreh De'a* 306:3).

The firstborn animal is eaten year by year – הַבְּכוֹר נֶאֱכָל שָׁנָה בְּשָׁנָה: A firstborn animal is eaten within its first year, whether it is blemished or unblemished. From when does one begin counting the year? If it is unblemished, one counts from the eighth day, which is the earliest time one may bring it as an offering. If it was born with a blemish, one counts the year from the day it was born. This is in accordance with the Gemara on *Rosh HaShana* 7a (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:8; *Shulḥan Arukh*, *Yoreh De'a* 306:7).

If a blemish developed within its first year – נוֹלַד לוֹ מוּם בְּתוֹךְ שְׁנָתוֹ: If a firstborn animal developed a blemish during its first year, the owner may keep it for twelve months. If the blemish appeared at the end of the year, he may keep it for thirty days more from when it developed the blemish, even if he keeps it for more than twelve months in total. For example, if it developed a blemish fifteen days before the end of the year, he may keep it for fifteen days after the end of the year. If it develops a blemish after the year is completed he may keep it for only thirty days (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:9; *Shulḥan Arukh*, *Yoreh De'a* 306:8).

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HALAKHA

The priests and the Levites – הַכֹּהֲנִים וְהַלְוִיִּם: It is prohibited for priests or Levites to assist at the threshing floor in order to take their gifts as payment. Any priest or Levite who does so desecrates God's name. Likewise, it is prohibited for an Israelite to allow a priest or a Levite to assist him. Rather, he must give them their gifts in an honorable manner. This *halakha* is in accordance with the ruling of the *baraita* (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 12:18).

NOTES

And if one did so he desecrated, etc. – וְאִם עוֹשִׂין כֵּן חִילְּלוּ וכו׳: The text of the *Tosefta* (*Demai* 5:20) reads as follows: If he gave them, they become non-sacred. It can be inferred from here, and from the Jerusalem Talmud (*Demai* 6:4), that the produce actually loses its sanctity and the owners have not fulfilled their obligation (see Rabbeinu Gershom Meor HaGola). Others maintain that it means that the priests have desecrated God's name. They should receive the *teruma* only as a gift, whereas these priests took it as their wages (Rambam; see Rashi on *Arakhin* 28b).

אֵיפוּךְ אֲנָא! מִסְתַּבְרָא: דְּמִקְּדֵם לְמִקְּדֵם, דְּמֵאַחַר – לְדְמֵאַחַר. אַדְרַבָּה: דְּסָמִיךְ לֵיהּ – לְדְסָמִיךְ לֵיהּ!

The Gemara challenges: If these verses are the source, one can **reverse** the cases and derive that a firstborn ox must be given to the priest after thirty days, and a firstborn sheep after fifty days. The Gemara explains: **It stands to reason** that the time period **that is** alluded to **earlier** in the first verse corresponds **to** the animal **that is** mentioned **earlier** in the second verse, while the time period **that is** alluded to **later** in the first verse corresponds **to** the animal **that is** mentioned **later** in the second verse. The Gemara rejects this: **On the contrary,** it stands to reason that the time period **that is** alluded **to closer to** the mention of an animal should correspond **to** the animal, i.e., oxen, **that is closest to it.**

אֶלָּא אָמַר רָבָא: אָמַר קְרָא: ״תַּעֲשֶׂה״ – הוֹסִיף לְךָ הַכָּתוּב עֲשִׂיָּיה אַחֶרֶת בְּשׁוֹרְךָ.

Rather, Rava says that the *halakha* of both a firstborn sheep and a firstborn ox are juxtaposed with the *halakha* of a firstborn child, which teaches that both require at least thirty days. But since **the verse states: "So you shall do** with your oxen" (Exodus 22:29), **the verse adds an extra** act of **doing for you in** the case of **your oxen.** In other words, the verse requires that the owner take care of an ox for additional time before giving it to the priest.

וְאֵימָא: שִׁיתִּין! לֹא מְסָרָךְ הַכָּתוּב אֶלָּא לַחֲכָמִים.

The Gemara challenges: **But** if so, one can **say** that the owner must care for the ox an additional thirty days, making a total of **sixty** days. From where is the total of fifty days derived? The Gemara answers: The interpretation of **the verse** with regard to the exact amount of time **was given only to the Sages,** and they determined that the owner must take care of his ox for fifty days.

תַּנְיָא נַמִּי הָכִי: ״בְּכוֹר בָּנֶיךָ תִּתֶּן לִי״ – ״כֵּן תַּעֲשֶׂה לְצֹאנֶךָ״. יָכוֹל אַף לְשׁוֹרְךָ? תַּלְמוּד לוֹמַר ״תַּעֲשֶׂה״ – הוֹסִיף לְךָ הַכָּתוּב עֲשִׂיָּיה אַחֶרֶת בְּשׁוֹרְךָ. לֹא מְסָרָךְ הַכָּתוּב אֶלָּא לַחֲכָמִים,

This is also taught in a *baraita*: "You shall not delay to offer of the fullness of your harvest, and of the outflow of your presses; **you shall give to Me your firstborn sons. So you shall do** with your oxen, and **with your sheep;** seven days it shall be with its mother; on the eighth day you shall give it to Me" (Exodus 22:28–29). One **might** have thought that this time period, i.e., thirty days, applies **also to your oxen.** Therefore, **the verse states: "You shall do." The verse adds an extra** act of **doing for you in** the case of **your oxen,** and the interpretation of **the verse was given only to the Sages.**

מִכָּאן אָמְרוּ: עַד כַּמָּה יִשְׂרָאֵל חַיָּיבִין לְהַטְפִּיל בַּבְּכוֹר? בִּבְהֵמָה דַּקָּה – שְׁלֹשִׁים יוֹם, בִּגַּסָּה – חֲמִשִּׁים יוֹם. רַבִּי יוֹסֵי אוֹמֵר: בְּדַקָּה – שְׁלֹשָׁה חֳדָשִׁים, מִפְּנֵי שֶׁטְּפוּלָה מְרוּבָּה. תָּנָא: מִפְּנֵי שִׁשִּׁינֶיהָ דַּקּוֹת.

From here the Sages **stated: Until when must an Israelite tend to** and raise **a firstborn** animal before handing it to the priest? **With regard to a small** animal, e.g., a sheep or goat, it is **thirty days, and with regard to a large** animal, e.g., cattle, it is **fifty days. Rabbi Yosei says: With regard to a small** animal, it is **three months, because its tending is extensive,** i.e., a great deal of work and effort are required in order to raise it before it can be given to a priest. A *tanna* **taught** that so much effort is required to raise a sheep **because its teeth are small** and it cannot eat most foods.

״אִם אָמַר לוֹ הַכֹּהֵן בְּתוֹךְ הַזְּמַן ׳תְּנֵהוּ לִי׳ – הֲרֵי זֶה לֹא יִתֵּן לוֹ״. מַאי טַעְמָא? אָמַר רַב שֵׁשֶׁת: מִפְּנֵי שֶׁנִּרְאֶה כְּכֹהֵן הַמְסַיֵּיעַ בְּבֵית הַגָּרְנוֹת.

§ The mishna teaches: If **the priest said to** the owner **within that period: Give it to me, that** owner **may not give it to him.** The Gemara asks: **What is the reason? Rav Sheshet says: Because** such a priest **appears like a priest who assists at the threshing floor** so that he can be given *teruma*. Since this arrangement benefits the owner of the firstborn, as he is spared the effort of taking care of the animal throughout this period, it is as though this priest has paid for the right to receive the firstborn, which is prohibited.

תָּנוּ רַבָּנָן: הַכֹּהֲנִים וְהַלְוִיִּם וְהָעֲנִיִּים, הַמְסַיְּיעִים בְּבֵית הָרוֹעִים וּבְבֵית הַגָּרְנוֹת וּבְבֵית הַמִּטְבָּחַיִם – אֵין נוֹתְנִין לָהֶם תְּרוּמָה וּמַעֲשֵׂר בְּשִׂכָּרָן, וְאִם עוֹשִׂין כֵּן – חִילְּלוּ. וַעֲלֵיהֶן הַכָּתוּב אוֹמֵר: ״וְשִׁחַתֶּם בְּרִית הַלֵּוִי״, וְאוֹמֵר: ״וְאֶת קָדְשֵׁי בְּנֵי יִשְׂרָאֵל לֹא תְחַלְּלוּ וְלֹא תָמוּתוּ״.

The Sages taught in a *baraita*: With regard to **the priests, the Levites,**[H] **and the poor** people **who assist in the home of the shepherd, or at the threshing floor, or in the slaughterhouse, one may not give them *teruma* or tithe as their wages. And if one did so, he desecrated**[N] the sanctity of the item. **And with regard to them the verse states:** "But you are turned aside out of the way; you have caused many to stumble in the law; **you have corrupted the covenant of Levi,** says the Lord of hosts" (Malachi 2:8). **And** another verse **states:** "And you shall bear no sin by it, seeing that you have set apart the best from it; **and you shall not desecrate the sacred items of the children of Israel, that you shall not die"** (Numbers 18:32).

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מַאי ״וְאוֹמֵר״? וְכִי תֵּימָא: מִיתָּה לָא – תָּא שְׁמַע: ״וְאֶת קָדְשֵׁי בְּנֵי יִשְׂרָאֵל לֹא תְחַלְּלוּ וְלֹא תָמוּתוּ״.

The Gemara asks: **What** is the reason that the Gemara cites the second verse introduced with the phrase: **And** another verse **states?** The Gemara answers: **And if you would say** that the first verse indicates merely that *teruma* and tithe become desecrated, but one who does this is **not** punished by **death,**[N] **come** and **hear** the second verse cited by the Gemara: **"And you shall not desecrate the sacred items of the children of Israel, that you shall not die"** (Numbers 18:32).

וּבְקָשׁוּ חֲכָמִים לְקוֹנְסָן וְלִהְיוֹת מַפְרִישִׁין עֲלֵיהֶן תְּרוּמָה מְשֻׁלֶּמֶת. וּמִפְּנֵי מָה לֹא קְנָסוּם – דִּלְמָא אָתֵי לְאַפְרוּשֵׁי מִן הַפָּטוּר עַל הַחִיּוּב.

The *baraita* continues: **And the Sages wished to penalize** those who gave *teruma* or tithe to the priests, Levites, or poor people who helped them, **and to** require them to **separate in their** place **complete *teruma*,** so that the owners of the produce would not benefit from their improper actions. **And for what** reason did the Sages **not penalize them? Perhaps** they would mistakenly think that the produce has not yet been tithed at all, and they would **come to separate** *teruma* and tithes **from** it when it is actually **exempt** produce, as by Torah law it has already had its tithes removed. They might then separate *teruma* and tithes from it **on** behalf of produce to which the **obligation** of separating tithes still applies, i.e., regular untithed produce.

וּבְכוּלָּן יֵשׁ בָּהֶן

The *baraita* adds: **And in all of** these cases, although it is prohibited to give the *teruma* and tithe to a priest or Levite as his wages, nevertheless **there is**

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And if you would say one is not punished by death, etc. – וְכִי תֵּימָא מִיתָּה לָא וכו׳: This does not mean that he actually receives the death penalty, as this transgression is not listed in tractate *Sanhedrin* among the sins for which the death penalty is administered by the court, nor is it one that incurs death at the hand of Heaven. Rather, this means that he is deserving of death at the hand of Heaven, like one who desecrates consecrated items (*Ha'amek She'ala*; Mahari Kurkus).

Perek **IV**
Daf **27** Amud **a**

טוֹבַת הֲנָאָה לַבְּעָלִים.

the **benefit of discretion for the owners**[H] of the produce, i.e., benefit accrued from the option of giving *teruma* and tithes to any priest or Levite of their choosing.

כֵּיצַד? יִשְׂרָאֵל שֶׁהִפְרִישׁ תְּרוּמָה מִכָּרְיוֹ, וּמְצָאוֹ יִשְׂרָאֵל אַחֵר וְאָמַר לוֹ: ״הֵא לְךָ סֶלַע זֶה, וּתְנֵהוּ לְבֶן בִּתִּי כֹּהֵן״ – מוּתָּר. אִם הָיָה כֹּהֵן לְכֹהֵן – אָסוּר.

The *baraita* continues: **How so?** With regard to **an Israelite who separated *teruma* from his pile** of grain, **and another Israelite found him and said to him: Take this *sela*** coin **for yourself and give** the *teruma* and tithes **to my daughter's son** who is **a priest,** it is **permitted.** But **if it was a priest** who gave the *sela* coin for the right to give the *teruma* and tithes **to** another **priest,** it is **prohibited.**[N] Priests may not pay for the gifts that they receive.

וְתַנָּא, מַאי טַעְמָא לָא קָאָמַר מַתָּנוֹת כְּהוּנָּה? אָמַר לָךְ: תְּרוּמָה, דְּקָדוּשַׁת הַגּוּף הִיא, דְּכֵיוָן דְּלָא מִתְחַלָּא – לָא אָתֵי לְמִיטְעֵי בָּהּ.

The Gemara asks: **And** according to the ***tanna*** of this *baraita*, **what is the reason** that **he does not state** that the owners also have the benefit of discretion with regard to the **gifts of the priesthood,** i.e., the foreleg, jaw, and maw, which must be given to the priest from every non-sacred animal that one slaughters? Why does he mention *teruma* alone? The Gemara answers that **he** could have **said to you:** In the case of ***teruma*, which has inherent sanctity,** and **which** therefore **cannot be redeemed,** the priest **will not come to err with it** and treat it as though it has no sanctity, even if the owner receives payment for it.

הָנֵי, כֵּיוָן דְּקָדוּשַׁת דָּמִים נִינְהוּ – אָתֵי לְמִיטְעֵי בְּהוֹן דְּבַר מִיתְחַל קְדוּשָׁתַיְיהוּ אַאַרְבָּעָה זוּזֵי, וְאָתָא לְמִינְהַג בָּהֶן מִנְהַג דְּחוּלִּין.

By contrast, with regard to **these** gifts of the priesthood, **since they have sanctity** that inheres in their **value,** which means that once the priest has received them he may sell them, the priest might **come to err with them** by saying **that** the **sanctity** that they have **can be redeemed with four *zuz*,** i.e., the one *sela*, **and** he might **come to treat them in the manner that** one treats **non-sacred** food.[H] This would be a mistake, as a priest must eat his priestly gifts in a dignified manner, i.e., roasted and with seasoning (see *Ḥullin* 132b).

HALAKHA

Benefit of discretion for the owners – טוֹבַת הֲנָאָה לַבְּעָלִים: An Israelite may say to another Israelite: Take this money and give your *teruma*, firstborn animal, or other gifts of the priesthood to my grandson who is a priest. This applies only when the owner was considering which of two priests to give it to for free, and a third party offers him money to sway his decision. The *halakha* is in accordance with the opinion of Rabbi Yoḥanan in the Jerusalem Talmud (*Demai* 6:2). The Rambam does not distinguish between *teruma* and other gifts of the priesthood (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 12:20–21).

The manner that one treats non-sacred food – מִנְהַג דְּחוּלִּין: A priest may eat his gifts of the priesthood in any manner of his choice. If he has no preference, he should eat them roasted, with seasoning, in the manner of royalty (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 9:22; *Shulḥan Arukh*, *Yoreh De'a* 61:12).

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If it was a priest to another priest it is prohibited – אִם הָיָה כֹּהֵן לְכֹהֵן אָסוּר: The commentaries explain that since this priest may eat the *teruma* himself, it appears as though he is paying a *sela* in order to receive it (Rashi; Rabbeinu Gershom Meor HaGola). Others add that there is a concern that the two priests might make a deal between themselves, and each will give to the other, which has the appearance of doing business with *teruma* (Mahari Kurkus on Rambam *Sefer Korbanot*, *Hilkhot Terumot* 12:20).

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אָמַר רָבָא: תְּרוּמַת חוּצָה לָאָרֶץ – אֵין בָּהּ מִשּׁוּם כֹּהֵן הַמְסַיֵּיעַ בְּבֵית הַגָּרְנוֹת. רַב חָמָא יָהֵיב לֵיהּ לְשַׁמָּעֵיהּ.

§ On a related topic, **Rava says: *Teruma* from outside of Eretz** Yisrael **does not have** any prohibition **due to a priest**[H] **assisting at the threshing floor.** The Sages decreed that one must separate *teruma* from produce grown in certain places outside of Eretz Yisrael. Yet, the *halakhot* governing this *teruma* are not as stringent as those that apply to *teruma* from produce grown within Eretz Yisrael. Consequently, one may give such *teruma* to a priest for helping at the threshing floor. In support of this claim, the Gemara relates that **Rav Ḥama gave** *teruma* from outside of Eretz Yisrael **to his servant,** who was a priest, as his wages.

אָמַר שְׁמוּאֵל: תְּרוּמַת חוּצָה לָאָרֶץ – בְּטֵילָה בְּרוֹב. רַבָּה מְבַטְּלָהּ בְּרוֹב וְאוֹכֵל לָהּ בִּימֵי טוּמְאָתוֹ.

With regard to *teruma* from outside of Eretz Yisrael, **Shmuel says: *Teruma* from outside of Eretz** Yisrael that became mixed with non-sacred produce **is nullified in a majority,**[H] unlike ordinary *teruma*, which requires one hundred parts of non-sacred produce to nullify it. The Gemara relates that **Rabba,** who was a priest, would **nullify** his *teruma* from outside of Eretz Yisrael **in a majority** *ab initio* **and eat it during his days of impurity.**[N] Both of these acts are prohibited in the case of *teruma* from produce grown in Eretz Yisrael.

רַב הוּנָא בְּרֵיהּ דְּרַב יְהוֹשֻׁעַ, כִּי מִתְרַמֵּי לֵיהּ חַמְרָא דִּתְרוּמָה, הֲוָה רָמֵי תְּרֵי נַטְלֵי דְּחוּלִּין, וַחֲדָא נַטְלָא דִּתְרוּמָה, וְשָׁקֵיל חַד. מִיכָּן וְאֵילָךְ – רָמֵי חֲדָא וְשָׁקֵיל חֲדָא.

The Gemara relates: **Rav Huna, son of Rav Yehoshua, when he would happen** to have **wine of *teruma*** from produce grown outside of Eretz Yisrael, **would pour two jugs**[H] **of non-sacred** wine **and one jug of *teruma*** wine into a vat in order to nullify the *teruma* wine, **and** then **take out one** jug's worth of wine to drink. Having done so, **from here onward** every time he received more *teruma* wine grown outside of Eretz Yisrael, he would **pour one** jug of *teruma* wine into the same vat, which still contained two jugs' worth of wine, **and take out one** jug's worth of wine.

וְאָמַר שְׁמוּאֵל: תְּרוּמַת חוּצָה לָאָרֶץ – אוֹכֵל וְהוֹלֵךְ וְאַחַר כָּךְ מַפְרִישׁ.

And Shmuel further **says: *Teruma* from** produce grown **outside of Eretz** Yisrael does not need to be separated before one eats the produce. Rather, one may **proceed to eat and afterward separate**[H] the *teruma* from the remainder.

NOTES

Nullify it in a majority and eat it during his days of impurity – מְבַטְּלָהּ בְּרוֹב וְאוֹכֵל לָהּ בִּימֵי טוּמְאָתוֹ: Some commentaries maintain that the leniency with regard to such *teruma* is only that priests may eat it during their days of impurity, as the Gemara testifies with regard to Rabba, who was a priest (*Tosafot*). A non-priest may not eat even such *teruma* unless it was mixed with other substances in a ratio of one to one hundred (see *Menaḥot* 67a). Conversely, Rashi writes that Shmuel deemed it permitted even for non-priests. Apparently he derives this conclusion from the incident involving Rav Huna, son of Rav Yehoshua, as there is no evidence that he was a priest (see Rabbeinu Gershom Meor HaGola). It is likewise indicated in the Jerusalem Talmud (*Ḥalla* 4:4) that it is permitted to non-priests.

HALAKHA

Teruma from outside of Eretz Yisrael does not have any prohibition due to a priest, etc. – תְּרוּמַת חוּצָה לָאָרֶץ אֵין בָּהּ מִשּׁוּם כֹּהֵן וכו': The prohibition against a priest assisting at the threshing floor does not apply in the case of *teruma* from outside of Eretz Yisrael. This *halakha* is in accordance with the opinion of Rava (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 5:12).

Teruma from outside of Eretz Yisrael is nullified in a majority – תְּרוּמַת חוּצָה לָאָרֶץ בְּטֵילָה בְּרוֹב: It is permitted to nullify *teruma* or *ḥalla* from outside of Eretz Yisrael and to eat it in a state of ritual impurity. This *halakha* is in accordance with the opinions of Shmuel and Rabba. The *Kesef Mishne* adds, citing the Rambam, that if there is no priest available, a non-priest may also eat this mixture, even if it was half *teruma* and half non-sacred (see *Shakh*). This ruling is in accordance with the opinion of Rabbi Zeira in the Jerusalem Talmud (*Ḥalla* 4:4). The Rema cites an opinion that *teruma* from outside of Eretz Yisrael may not be eaten by a non-priest unless it is nullified in one hundred parts of the same type of food or sixty parts of a different type of food (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 5:12; *Shulḥan Arukh*, *Yoreh De'a* 323:1).

He would pour two jugs, etc. – הֲוָה רָמֵי תְּרֵי נַטְלֵי וכו': The Rambam writes that if one has wine from *teruma* from outside of Eretz Yisrael, he may mix one *log* of it with two *log* of non-sacred wine. He may then take another *log* of *teruma* wine, mix it with those three *log*, then remove one *log* to drink. He may continue adding one *log* and removing one *log*, as was the practice of Rav Huna, son of Rav Yehoshua. The Ra'avad counters that Rambam's suggestion is not in accordance with the Gemara, as this would mean that there are two *log* of *teruma* with two *log* of non-sacred wine, and therefore there is no majority of non-sacred wine. The commentaries explain that the Rambam's text of the Gemara did not contain the phrase: And remove one (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 13:11; see Maharit Algazi).

Proceed to eat and afterward separate – אוֹכֵל וְהוֹלֵךְ וְאַחַר כָּךְ מַפְרִישׁ: One may eat dough outside of Eretz Yisrael with the intent to separate *ḥalla* afterward, as the obligation to separate *ḥalla* applies by rabbinic law to dough from outside of Eretz Yisrael. This *halakha* is in accordance with the opinion of Shmuel. The Rema writes that one must leave slightly more than the minimum amount for *ḥalla*, so that there is some dough from which the *ḥalla* is separated (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 5:12; *Shulḥan Arukh*, *Yoreh De'a* 323:1).

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וְאָמַר שְׁמוּאֵל: אֵין תְּרוּמַת חוּצָה לָאָרֶץ אֲסוּרָה אֶלָּא בִּמְי שֶׁהַטּוּמְאָה יוֹצְאָה עָלָיו מִגּוּפוֹ. וְהָנֵי מִילֵּי – בַּאֲכִילָה, אֲבָל בִּנְגִיעָה – לֵית לָן בָּהּ.

And Shmuel also **says:** ***Teruma* from outside of Eretz** Yisrael **is prohibited only** to a member of a priestly household **whose impurity comes from his body,**[H] e.g., a man who experiences a seminal emission or a menstruating woman. It is not prohibited to a priest who came into contact with a corpse, an animal carcass, or the carcass of a creeping animal. **And this statement,** that such *teruma* is forbidden to one whose impurity comes from his body, applies only **with regard to eating** it. **But with regard to touching** *teruma* from outside of Eretz Yisrael, **we have no** problem **with it.**

אָמַר רָבִינָא: הִילְכָךְ, נִדָּה קוֹצָה חַלָּה, וְאוֹכֶל לָהּ כֹּהֵן קָטָן. וְאִי לֵיכָּא כֹּהֵן קָטָן – שָׁקְלָה לָהּ בְּרֵישׁ מַסָּא, וְשָׁדְיָא בְּתַנּוּרָא, וְהָדַר מַפְרְשָׁא חַלָּה אַחֲרִיתִי, כִּי הֵיכִי דְּלָא תִּשְׁתַּכַּח תּוֹרַת חַלָּה, וְאוֹכֶל לָהּ כֹּהֵן גָּדוֹל.

Ravina says: Therefore, a menstruating woman, whose impurity comes from her body, **may separate *ḥalla***[H] from dough outside of Eretz Yisrael, **and a minor priest,** who has never experienced a seminal emission and is therefore ritually pure, **may eat it.**[HN] **And if there is no minor priest** available, **she takes** the *ḥalla* **with the top of a skewer** [*massa*][NB] **and throws it in the oven, and then separates another** piece from the dough as ***ḥalla,*** not because it is necessary but **so that the** halakhic **category of *ḥalla* should not be forgotten. And an adult priest** may **eat it,** even if he is ritually impure.

רַב נַחְמָן וְרַב עַמְרָם וְרָמִי בַּר חָמָא הֲווֹ קָאָזְלִי בְּאַרְבָּא, סָלֵיק רַב עַמְרָם לְאַפְנוּיֵי, אֲתַאי הַהִיא אִיתְּתָא עֵלַת קַמַּיְיהוּ, אָמְרָה לְהוּ: טְמֵא מֵת מַהוּ שֶׁיִּטְבּוֹל וְאוֹכֵל תְּרוּמַת חוּצָה לָאָרֶץ? אֲמַר לֵיהּ רַב נַחְמָן לְרָמִי בַּר חָמָא:

The Gemara relates that **Rav Naḥman,**[P] **Rav Amram,**[P] **and Rami bar Ḥama**[P] **were traveling in a ferry. Rav Amram went to relieve himself. A certain woman came before** Rav Naḥman and Rami bar Ḥama and **said to them:** In the case of one who is **impure** through contact with **a corpse, what is** the *halakha* **with regard to** whether **he may immerse** himself in a ritual bath **and partake of *teruma* from outside of Eretz** Yisrael? **Rav Naḥman said to Rami bar Ḥama:**

HALAKHA

One whose impurity comes from his body – בְּמִי שֶׁהַטּוּמְאָה יוֹצְאָה עָלָיו מִגּוּפוֹ: Since the obligation to separate *teruma* and *ḥalla* from outside of Eretz Yisrael is by rabbinic law, they are prohibited only to a member of a priestly household who is impure due to some bodily emission, i.e., one who experienced a seminal emission, a *zav* or *zava*, a menstruating woman, or a woman after childbirth. Once they have immersed in a ritual bath, these individuals may partake of *teruma* immediately and need not wait until nightfall. Some authorities (see Rema, citing Ran) are stringent and rule that they must wait until nightfall (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 7:8 and *Hilkhot Bikkurim* 5:10; *Shulḥan Arukh*, *Yoreh De'a* 322:5).

A menstruating woman may separate *ḥalla* – נִדָּה קוֹצָה חַלָּה: A menstruating woman may separate *ḥalla* outside of Eretz Yisrael, as she is prohibited only from eating it, but it is permitted for her to touch it (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 12:1 and *Hilkhot Bikkurim* 5:12).

And a minor priest may eat it – וְאוֹכֵל לָהּ כֹּהֵן קָטָן: When one prepares dough outside of Eretz Yisrael, he must separate *ḥalla* twice. The first *ḥalla* is burned because it is ritually impure with the impurity of gentile lands. The second *ḥalla* is given to a priest to eat, so that the mitzva of *ḥalla* should not be forgotten. A priest who is impure may eat this *ḥalla*, even if he is a *zav*. This *halakha* is in accordance with the mishna in tractate *Ḥalla* (4:8). If one wishes, he may separate *ḥalla* only once and feed it to a minor priest who has never experienced a seminal emission, or to the daughter of a priest who has never menstruated. This is in accordance with the opinion of Ravina. Similarly, a priest who has immersed in a ritual bath may eat that *ḥalla* that is separated first, in which case there is no need to separate *ḥalla* a second time. The Rema cites an opinion that since *ḥalla* is presently not eaten at all in Eretz Yisrael, as there are no ashes of the red heifer available to purify priests, *ḥalla* need be separated only once outside of Eretz Yisrael, and it is burned. It should not be given to a minor priest, as it is impossible to know for certain who is a priest (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 5:5–11; *Shulḥan Arukh*, *Yoreh De'a* 322:5, and *Shakh* and *Taz* there).

BACKGROUND

Skewer [*massa*] – מַסָּא: Rashi explains that this means a poker or skewer, whereas *Tosafot* contend that it is referring to a baker's paddle.

NOTES

And a minor priest may eat it – וְאוֹכֵל לָהּ כֹּהֵן קָטָן: Some commentaries explain that the word minor here means one who is less than nine years old, before it is possible that he experienced a seminal emission. According to Rashi's first explanation, this is referring to a child who is less than thirteen years old, as he is not obligated to observe the mitzvot. It would appear that even an adult priest who has experienced a seminal emission would be permitted to eat it after he has immersed in a ritual bath (Rashi, citing *She'iltot deRav Aḥai Gaon* 108). Others write that an adult priest may not eat this *teruma* even after immersion, lest he come to eat it on another occasion without immersing first (Ra'avad on Rambam *Sefer Zera'im*, *Hilkhot Terumot* 7:8).

It is prohibited for a priest who is ritually impure to partake of *teruma* from outside of Eretz Yisrael that has been touched by a menstruating woman, despite the fact that it is permitted for her to touch that produce. Conversely, it is permitted for a child who is not obligated in mitzvot to eat that impure produce. Others contend that the Gemara does not specifically mean that only a child may eat it; rather, since one separates only a small amount of dough as *ḥalla* it is more common to give it to a child (*Tosafot*).

With the top of a skewer [*bereish massa*] – בְּרֵישׁ מַסָּא: Some commentaries maintain that she may also place it directly with her hands, as she has already handled this *ḥalla* when she separated it. The Gemara mentions the skewer only because it is a more practical method of pushing the *ḥalla* further into the fire (*Tosafot*; see *Tosafot Ḥitzoniyyot*). Rashi writes that because she has already rendered it *ḥalla* she must be careful not to touch it, and therefore she must use a skewer. Yet others hold that a menstruating woman may not separate *ḥalla* unless there is no one else available who can separate it for her. Therefore, when burning it she must be careful not to touch it, especially if there is a young priest who would be permitted to eat it in a state of ritual purity (Ra'avan). There is an entirely different interpretation, which explains that the phrase *reish massa* does not mean top of skewer, but first *ḥalla* (Rabbeinu Gershom Meor HaGola).

PERSONALITIES

Rav Naḥman – רַב נַחְמָן: Rav Naḥman bar Ya'akov was a Babylonian *amora* of the second and third generations of *amora'im*. Although he cites statements in the name of both Rav and Shmuel, his primary teacher was Rabba bar Avuh, Rav's student. He never formally headed one of the Babylonian academies, but many of the Sages of the next generation were his students, including the great *amora* Rava.

In his youth, Rav Naḥman was already recognized as a prodigy. He married Yalta, a member of the Exilarch's family, who was a learned and strong-willed woman. Subsequently, Rav Naḥman was appointed a judge in the Exilarch's house in Neharde'a. In that capacity, Rav Naḥman became an expert in monetary law, to the extent that the Gemara concludes that in monetary law his opinion is always accepted as *halakha*.

Although Rav Naḥman was known to have a forceful personality, he was also considered one of the most pious men of his generation, and the Gemara cites numerous examples of his acts of kindness.

Rav Amram – רַב עַמְרָם: There are several individuals by the name of Rav Amram mentioned in the Gemara. The one mentioned here is from the second generation of *amora'im* and a student of Rav. By Rav Naḥman's time, Rav Amram was considered venerable and important, to the extent that the Gemara (*Ketubot* 11b) states: Rav Amram and all the prominent Sages of the generation, which indicates that Rav Amram was the greatest of them.

Rami bar Ḥama – רָמִי בַּר חָמָא: Rami bar Ḥama, whose first name is a contraction of the name Rav Ami, was an important *amora* from the fourth generation of Babylonian *amora'im*. In his youth he was considered the preeminent disciple of Rav Ḥisda, and he eventually married Rav Ḥisda's daughter. Rami bar Ḥama also studied under Rav Naḥman and Rav Sheshet, and engaged them in halakhic discussions. He was known for his fierce intellect and his masterful memory of the oral tradition. Rami bar Ḥama enjoyed a close relationship with his younger friend and colleague Rava. After his death Rava married his widow, Rav Ḥisda's daughter. Rami bar Ḥama's grandson was the *amora* Ameimar.

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וְכִי הַזָּאָה יֵשׁ לָנוּ? אֲמַר לֵיהּ רָמִי בַּר חָמָא: לָא לֵיחוּשׁ לֵיהּ לְסָבָא? אַדְּהָכִי אֲתָא רַב עַמְרָם, אֲמַר לְהוּ, הָכִי אָמַר רַב: טְמֵא מֵת טוֹבֵל וְאוֹכֵל בִּתְרוּמַת חוּצָה לָאָרֶץ.

But do we have sprinkling[N] of the ashes of the red heifer? Since without such sprinkling one remains impure after contact with a corpse, how does it help to immerse in a ritual bath? **Rami bar Ḥama said to him: Shouldn't** Rav Naḥman **be concerned for** the opinion **of the old man,** i.e., Rav Amram? Wouldn't it be better to wait until he returns before answering? **Meanwhile, Rav Amram came** back. **He said to them** that **this** is what **Rav says:** One who became impure with **impurity** imparted by **a corpse may immerse and partake of *teruma* from** produce grown **outside of Eretz** Yisrael.

וְלֵית הִלְכְתָא כְּוָותֵיהּ; דְּאָמַר מָר זוּטְרָא מִשְּׁמֵיהּ דְּרַב שֵׁשֶׁת: טְמֵא שֶׁרֶץ טוֹבֵל וְאוֹכֵל בִּתְרוּמַת חוּצָה לָאָרֶץ, וְלֵית הִלְכְתָא כְּוָותֵיהּ.

The Gemara comments: **But the *halakha*** is **not in accordance with his** opinion.[N] **Mar Zutra said in the name of Rav Sheshet:** One who became **impure** through contact with the carcass of **a creeping animal may immerse** in a ritual bath **and partake of *teruma* from** produce grown **outside of Eretz** Yisrael.[H] **But the *halakha*** is **not in accordance with his** opinion.

"בְּכוֹר נֶאֱכָל שָׁנָה בְּשָׁנָה" כו'. מִדְּקָאָמַר "נוֹלַד בּוֹ מוּם בְּתוֹךְ שְׁנָתוֹ" – לְמֵימְרָא דִּלְשָׁנָה דִּידֵיהּ מָנִינַן. מְנָא הָנֵי מִילֵּי?

§ The mishna teaches: **The firstborn animal is eaten year by year,** i.e., within its first year, whether it is blemished or unblemished. The Gemara comments: **From** the fact **that** the mishna **says: If a blemish developed within its** first **year,** rather than within the first year, that is **to say that we count** according **to its year,**[H] not by the calendar year. In other words, the year is calculated from the day of the animal's birth. **From where is this matter** derived?

דְּאָמַר רַב יְהוּדָה אָמַר רַב, דְּאָמַר קְרָא: "לִפְנֵי ה' אֱלֹהֶיךָ תֹּאכְלֶנּוּ שָׁנָה בְּשָׁנָה", אֵיזוֹהִי שָׁנָה שֶׁנִּכְנֶסֶת בַּחֲבֵרְתָּהּ – הֱוֵי אוֹמֵר: שָׁנָה שֶׁל בְּכוֹר.

It is derived from a verse, **as Rav Yehuda says** that **Rav says that the verse states: "You shall eat it before the Lord your God, year by year** [***shana beshana***] in the place that the Lord shall choose, you and your household" (Deuteronomy 15:20). The phrase "*shana beshana*," which can also be translated as: A year in a year, indicates that the verse is referring to one year that enters another year. **Which** type of **year enters another** year? **You must say** that this is speaking of the **year of the firstborn** animal, which enters the following calendar year, since if the animal is born in the middle of the year, its first year includes part of the subsequent calendar year.

דְּבֵי רַב תָּנָא: "שָׁנָה בְּשָׁנָה" – יוֹם אֶחָד בְּשָׁנָה זוֹ וְיוֹם אֶחָד בְּשָׁנָה זוֹ, לִימֵּד עַל הַבְּכוֹר שֶׁנֶּאֱכָל לִשְׁנֵי יָמִים וְלַיְלָה אֶחָד.

The school of Rav taught that there is a different *halakha* derived from the phrase "**year by year.**" This phrase indicates that it may be eaten on **one day of this year and one day of that** next **year.** The verse thereby **taught with regard to** an unblemished **firstborn** animal, which is sacrificed in the Temple, **that it is eaten for two days and one night,**[H] like a peace offering.

NOTES

But do we have sprinkling – וְכִי הַזָּאָה יֵשׁ לָנוּ: Without sprinkling, how does immersion in a ritual bath purify a person? According to Rashi, the question is whether in addition to immersing in a ritual bath one who has come into contact with a corpse must also wait until nightfall as though it were the seventh day of his purification process. Rav Naḥman's reply is that since he does not receive the sprinkling on the third and seventh days of his purification process, he does not need to wait for nightfall either.

The *halakha* is not in accordance with his opinion, etc. – לֵית הִלְכְתָא כְּוָותֵיהּ וכו': In other words, the *halakha* is not in accordance with the opinion of Rav. Rather, it is in accordance with the opinion of Shmuel, who holds that *teruma* from outside of Eretz Yisrael is prohibited to a priest only if he is impure due to an emission from his body. This is derived by an *a fortiori* inference, since Mar Zutra ruled against the opinion of Rav Sheshet with regard to impurity imparted by the carcass of a creeping animal, maintaining that immersion is not necessary despite the fact there is no requirement for the ashes of the red heifer. According to Rashi's opinion that the discussion is not referring to the requirement of immersion but to whether or not he must wait until nightfall, the Gemara's conclusion is that one who becomes impure through contact with the carcass of a creeping animal must wait until nightfall, and the same applies to one who becomes impure through contact with a corpse (*Shai LaMora*). According to most manuscripts, Rav Sheshet's statement is not a continuation of the previous sentence. According to those manuscripts, the correct text should read: And Mar Zutra said.

HALAKHA

The obligation of immersion before partaking of *teruma* from outside of Eretz Yisrael – חוֹבַת טְבִילָה לִתְרוּמַת חוּץ לָאָרֶץ: One who is ritually impure through contact with any impure item, including a corpse, from which it is impossible to become pure nowadays, is not required to immerse in a ritual bath before eating *teruma* from outside of Eretz Yisrael. This ruling is in accordance with the interpretation of *Tosafot* (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 7:8; *Shulḥan Arukh*, *Yoreh De'a* 322:5).

We count according to its year – לְשָׁנָה דִּידֵיהּ מָנִינַן: A firstborn animal must be eaten within its first year, whether it is blemished or unblemished. If it is unblemished, the year begins when the animal is eight days old and it is fit to be sacrificed on the altar. If the animal is blemished, the year begins from the day it is born. This ruling is in accordance with the conclusion of the Gemara here and *Rosh HaShana* 7a (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:8; *Shulḥan Arukh*, *Yoreh De'a* 306:7).

With regard to a firstborn that it is eaten for two days and one night – עַל הַבְּכוֹר שֶׁנֶּאֱכָל לִשְׁנֵי יָמִים וְלַיְלָה: A firstborn animal may be eaten from the time it is slaughtered until sunset on the following day (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 10:6).

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דְּבֵי רַב מְנָא לְהוּ? יְלָפִי מֻקְדָּשִׁים. וְקָדָשִׁים גּוּפַיְיהוּ מְנָלַן? אָמַר רַב אַחָא בַּר יַעֲקֹב: אָמַר קְרָא "כֶּבֶשׂ בֶּן שְׁנָתוֹ" – שְׁנָתוֹ שֶׁלּוֹ, וְלֹא שָׁנָה שֶׁל מִנְיַן עוֹלָם.

The Gemara asks: **From where** does **the school of Rav** derive the *halakha* that a firstborn must be eaten within its own year and that its year is not calculated according to the calendar year? **They derive it from** the *halakha* of other **sacrificial** animals, whose age is counted from their birth rather than by the calendar year. **And** with regard to the other **sacrificial** animals **themselves, from where do we** derive that their age is counted from their birth? **Rav Aḥa bar Yaakov says** that **the verse states:** "And when the days of her purification are fulfilled, for a son or for a daughter, she shall bring **a lamb in its first year** for a burnt offering, and a pigeon or a dove for a sin offering, to the door of the Tent of Meeting, to the priest" (Leviticus 12:6). This description of the lamb is referring to **its** own **year, and not a year of the counting of the world.**

וְרַב, נֶאֱכָל לִשְׁנֵי יָמִים וְלַיְלָה אֶחָד, מְנָא לֵיהּ? נָפְקָא לֵיהּ מִ"וּבְשָׂרָם יִהְיֶה לָּךְ כַּחֲזֵה הַתְּנוּפָה וּכְשׁוֹק הַיָּמִין" – הִקִּישׁוֹ הַכָּתוּב לְחָזֶה וְשׁוֹק שֶׁל שְׁלָמִים, מַה לְּהַלָּן – שְׁנֵי יָמִים וְלַיְלָה אֶחָד, אַף כָּאן – שְׁנֵי יָמִים וְלַיְלָה אֶחָד.

The Gemara asks: **And Rav, from where does he** derive that a firstborn **is eaten for two days and one night?** The Gemara answers: **He derives it from** a verse in which Moses spoke to Aaron and his sons with regard to eating the firstborn: "**And their flesh shall be yours, as the breast of waving and as the right thigh, it shall be yours**" (Numbers 18:18). **The verse** thereby **juxtaposed** the *halakha* of the firstborn **with the breast and thigh of a peace offering. Just as there,** it may be eaten for **two days and one night,** as stated explicitly in a verse (see Leviticus 7:16), **so too here,** a firstborn may be eaten for **two days and one night.**

Perek **IV**
Daf **28** Amud **a**

וְאִידָךְ: אִי מֵהָתָם, אֵיכָא לְמֵימַר: חָזֶה וְשׁוֹק שֶׁל תּוֹדָה.

And the other ones, i.e., the Sages from the school of Rav, why don't they derive the *halakha* that a firstborn is eaten for two days and one night from that verse? The Gemara answers that **if** it were derived **from there, it** would **be** possible **to say** that the verse is comparing the *halakha* of a firstborn to the **breast and thigh of a thanks offering,** which are eaten for only one day and night.

וְאִידָךְ: אָמַר קְרָא: "לְךָ יִהְיֶה" – הוֹסִיף לְךָ הַכָּתוּב הֶוְיָה אַחֶרֶת בִּבְכוֹר.

The Gemara asks: **And the other** one, Rav Yehuda, citing Rav, how does he respond to this? **The verse states:** "And their flesh shall be yours, as the breast of waving and as the right thigh, **it shall be yours**" (Numbers 18:18). **The verse adds another** mention of a form of the term **being** in the second phrase: "It shall be yours," to teach **that** the priest has an additional day to eat **a firstborn** animal, i.e., that it is compared to the breast and thigh of a peace offering, not to that of a thanks offering.

וְאִידָךְ: הָא מֵהָתָם אֵיכָא לְמֵימַר: הַאי "יִהְיֶה לָּךְ" – לִימֵּד עַל בְּכוֹר בַּעַל מוּם שֶׁנּוֹתְנוֹ לַכֹּהֵן, שֶׁלֹּא מָצִינוּ לוֹ בְּכָל הַתּוֹרָה כּוּלָּהּ.

The Gemara asks: **And the other** ones, the Sages from the school of Rav, how do they respond to this claim? The Gemara answers: With regard to the inference **from there, it is** possible **to say** that **this** phrase: "**It shall be yours," teaches with regard to a blemished firstborn that** the owner must **give it to the priest.** This derivation is necessary, **as we have not found this** *halakha* that a blemished firstborn is given to a priest stated explicitly **anywhere in the entire Torah.**

וְאִידָךְ: אָמַר "וּבְשָׂרָם" – אֶחָד תָּם וְאֶחָד בַּעַל מוּם. וְאִידָךְ: "וּבְשָׂרָם" דְּהֵנֵי בְּכוֹרוֹת דְּכוּלְּהוּ יִשְׂרָאֵל קָאָמַר.

The Gemara asks: **And the other** one, Rav Yehuda, citing Rav, from where does he derive that a blemished firstborn is given to a priest? The verse **states: "And their flesh** shall be yours," in the plural, i.e., **both an unblemished** firstborn **and a blemished** firstborn. The Gemara asks: **And the other** ones, the Sages from the school of Rav, how do they respond? The Gemara answers that they would claim that the term **"and their flesh"** is written in the plural not because it is referring to blemished animals, but because it **is said** in reference **to those firstborn** animals **of all the Israelites.**

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"נוֹלַד לוֹ מוּם בְּתוֹךְ שְׁנָתוֹ רַשַּׁאי לְקַיְּימוֹ כָּל שְׁנֵים עָשָׂר חֹדֶשׁ". אִיבַּעְיָא לְהוּ: הֵיכִי קָאָמַר? נוֹלַד לוֹ בְּתוֹךְ שְׁנָתוֹ – רַשַּׁאי לְקַיְּימוֹ כָּל שְׁנֵים עָשָׂר חֹדֶשׁ, וּלְאַחַר שְׁנָתוֹ – נַמִי שְׁלֹשִׁים. אוֹ דִלְמָא: הֵיכָא דְּנוֹלַד בּוֹ מוּם בְּתוֹךְ שְׁנָתוֹ – רַשַּׁאי לְקַיְּימוֹ כָּל שְׁנֵים עָשָׂר חֹדֶשׁ וְתוּ לָא, וְהֵיכָא דְּנוֹלַד לוֹ אַחַר שְׁנָתוֹ – אֵינוֹ רַשַּׁאי לְקַיְּימוֹ אֶלָּא שְׁלֹשִׁים?

§ The mishna teaches: If **a blemish developed within its** first **year,** it is **permitted** for the owner **to maintain** the animal **for the entire twelve months;** if a blemish developed after twelve months have passed, it is permitted for the owner to maintain the animal for only thirty days. **A dilemma was raised before** the Sages: With regard to **what** case **is** the mishna **speaking?** Does the mishna mean that if **a blemish developed within** the animal's first **year,** the owner is **permitted to maintain** the animal **for the entire twelve months, and after** the animal's first **year also** for another **thirty** days? **Or perhaps** the mishna is referring to two different situations, i.e., in a case **where the blemish developed within** the animal's first **year** the owner is **permitted to maintain** the animal **for the entire twelve months, but nothing more; and** in a case **where it developed** a blemish **after** one **year, he is permitted to maintain it for only thirty** days.

תָּא שְׁמַע, דְּתַנְיָא: בְּכוֹר בְּזִמַן הַזֶּה, עַד שֶׁלֹּא נִרְאָה לְהַרְאוֹתוֹ לָחָכָם – רַשַּׁאי לְקַיְּימוֹ שְׁתַּיִם וְשָׁלֹשׁ שָׁנִים. וּמִשֶּׁנִּרְאָה לְהַרְאוֹתוֹ לָחָכָם, נוֹלַד לוֹ מוּם בְּתוֹךְ שְׁנָתוֹ – רַשַּׁאי לְקַיְּימוֹ כָּל שְׁנֵים עָשָׂר חֹדֶשׁ,

The Gemara suggests: **Come** and **hear, as it is taught** in a *baraita*: With regard to **a firstborn in the present** time,[H] when there is no Temple and the animal cannot be brought as an offering, **until** it has developed a blemish that **can be shown to an expert,** it is **permitted** for the owner **to maintain** the animal **for two or three years. But once** the animal develops a blemish **that can be shown to an expert,** if **the blemish developed within its** first **year,** it is **permitted** for the owner **to maintain it for the entire twelve months.**

אַחַר שְׁנָתוֹ אֵינוֹ רַשַּׁאי לְקַיְּימוֹ אֲפִילּוּ יוֹם אֶחָד, וַאֲפִילּוּ שָׁעָה אַחַת, אֲבָל מִפְּנֵי הֶשְׁבֵּת אֲבֵידָה לַבְּעָלִים אָמְרוּ: רַשַּׁאי לְקַיְּימוֹ שְׁלֹשִׁים יוֹם.

The *baraita* continues: **After** the animal's first **year,** the owner **does not have permission to maintain it even** for **one day, or even one hour. But due to** the mitzva of **returning a lost item to the owners,** i.e., to give the owner time to find a priest and give him the animal, the Sages **said:** The owner **is permitted to maintain** the animal[N] for **thirty days.** The Gemara assumes that in its latter clause the *baraita* is still addressing a blemish that developed in the first year. If so, the thirty days evidently apply in such a case.

וַעֲדַיִין תֵּיבָּעֵי לִי: שְׁלֹשִׁים יוֹם אַחַר שְׁנָתוֹ, אוֹ דִלְמָא קוֹדֶם שְׁנָתוֹ?

The Gemara asks: **But still, let the dilemma be raised** with regard to that *baraita* itself: Are the **thirty days** granted in a case where the animal develops a blemish **after its** first **year? Or perhaps** these thirty days are granted if it develops a blemish **before** the end of **its** first **year.** In other words, when the *baraita* states: After its first year, this can be interpreted as referring to an animal whose blemish developed only then, or to one that had a blemish earlier and subsequently reached the end of its first year.

תָּא שְׁמַע: נוֹלַד לוֹ מוּם בַּחֲמִשָּׁה עָשָׂר יוֹם בְּתוֹךְ שְׁנָתוֹ – מַשְׁלִימִין לוֹ חֲמִשָּׁה עָשָׂר יוֹם אַחַר שְׁנָתוֹ, שְׁמַע מִינָּה. מְסַיַּיע לְרַבִּי אֶלְעָזָר, דְּאָמַר רַבִּי אֶלְעָזָר: נוֹתְנִין לוֹ שְׁלֹשִׁים יוֹם מִשָּׁעָה שֶׁנּוֹלַד בּוֹ מוּם.

The Gemara suggests: **Come** and **hear** a *baraita*: If the animal **developed a blemish on the fifteenth day within its** first **year,** i.e., fifteen days before the end of its year, **one completes for it fifteen days after its year. Conclude from** this *baraita* that the owner may maintain a firstborn for an additional thirty days if it develops the blemish during its first year. The Gemara adds that **this supports** the opinion **of Rabbi Elazar, as Rabbi Elazar says:** With regard to an animal that developed a blemish toward the end of its year, **one gives** the owner **thirty days from the time that** the animal **developed a blemish.**

HALAKHA

A firstborn in the present time – בְּכוֹר בַּזְּמַן הַזֶּה: Nowadays a firstborn is kept for two or three years if it has no blemish that can be shown to an expert. Neither the owner nor a priest may do anything to harm the animal (*Gra*). If the animal develops a blemish, the priest may keep it and is not required to take it to an expert immediately (*Shakh*, citing *Tosafot*). Once it has a blemish fit to be shown to an expert, if it developed the blemish within its first year, the owner may maintain it for the entire twelve months, but if it developed a blemish after its first year, he may maintain it for only thirty days. This *halakha* is in accordance with the opinion cited in the *baraita* (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:11; *Shulḥan Arukh*, *Yoreh De'a* 306:9).

NOTES

Due to the mitzva of returning a lost item to the owners the Sages said he is permitted to maintain it – מִפְּנֵי הֶשְׁבֵּת אֲבֵידָה לַבְּעָלִים אָמְרוּ רַשַּׁאי לְקַיְּימוֹ: According to Rashi, this is referring to a firstborn animal owned by an Israelite, and the concern is that if he slaughters it immediately the meat might spoil before he finds a priest. Therefore, the owner is permitted, or according to one opinion is required, to leave the animal alive for thirty days until he finds a priest. He may not keep it for longer than thirty days, lest he forget that it has sanctity and make use of it. Consequently, at this stage he must slaughter and salt it, on the chance that it will keep until he finds a priest. Others maintain that this case is referring to an animal that is in the possession of a priest, and the meaning of this clause is that if the priest does not need the meat immediately, he is not obligated to slaughter it right away, but may wait thirty days. According to this opinion, if the animal is in the possession of an Israelite, he waits as long as it takes to find a priest (*Tosafot*).

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אִיכָּא דְּאָמְרִי, אָמַר רַבִּי אֶלְעָזָר: מִנַּיִן לִבְכוֹר שֶׁנּוֹלַד בּוֹ מוּם בְּתוֹךְ שְׁנָתוֹ, שֶׁנּוֹתְנִין לוֹ שְׁלֹשִׁים יוֹם אַחַר שְׁנָתוֹ? שֶׁנֶּאֱמַר: ״לִפְנֵי ה׳ אֱלֹהֶיךָ תֹּאכְלֶנּוּ שָׁנָה בְּשָׁנָה״, אֵיזוֹ הֵן יָמִים הַחֲשׁוּבִין שָׁנָה – הֱוֵי אוֹמֵר אֵלּוּ שְׁלֹשִׁים יוֹם.

There are those **who say** that **Rabbi Elazar says: From where** is it derived with regard **to a firstborn** animal **that developed a blemish during its** first **year that one gives** the owner **thirty days after its year?** It is derived from a verse, **as it is stated: "You shall eat it before the Lord your God year by year** in the place that the Lord shall choose, you and your household" (Deuteronomy 15:20). It is derived from here that it may be eaten for one year and for another year. **Which are** the **days that are considered** to be a significant part of **a year? You must say these are thirty days,** which in certain respects are considered a complete year.[N] This indicates that such a firstborn may be eaten for up to thirty days beyond the first twelve months.

מֵיתִיבִי: נוֹלַד לוֹ מוּם בַּחֲמִשָּׁה עָשָׂר יוֹם בְּתוֹךְ שְׁנָתוֹ – מַשְׁלִימִין לוֹ חֲמִשָּׁה עָשָׂר יוֹם אַחַר שְׁנָתוֹ; הַשְׁלָמָה – אִין, מִיהַבָּא – לָא! תִּיוּבְתָּא דְּרַבִּי אֶלְעָזָר, תִּיוּבְתָּא.

According to this version of the discussion, the Gemara **raises an objection:** It is taught in a *baraita* that if the animal **developed a blemish on the fifteenth day within its year,**[H] i.e., fifteen days before the end of its year, **one completes for it fifteen days after its year.** This indicates that with regard to **completing** a total of thirty days from the time the animal developed the blemish, **yes,** the owner may continue to maintain the animal in such a case. But if the blemish developed earlier, the *baraita* does **not give him** an extra thirty days beyond the conclusion of the year. The Gemara concludes: **The refutation of** the opinion of **Rabbi Elazar** is indeed **a conclusive refutation.**

מתני׳ הַשּׁוֹחֵט אֶת הַבְּכוֹר וּמַרְאֶה אֶת מוּמוֹ – רַבִּי יְהוּדָה מַתִּיר. רַבִּי מֵאִיר אוֹמֵר: הוֹאִיל וְנִשְׁחַט שֶׁלֹּא עַל פִּי מוּמְחֶה – אָסוּר. מִי שֶׁאֵינוֹ מוּמְחֶה, וְרוֹאֶה אֶת הַבְּכוֹר, וְנִשְׁחַט עַל פִּיו – הֲרֵי זֶה יִקָּבֵר, וְיִשַּׁלֵּם מִבֵּיתוֹ.

MISHNA In the case of **one who slaughters the firstborn** animal **and** only then **shows its blemish** to an expert to determine whether it is a blemish, and it was established by the expert that it is in fact a blemish that renders its slaughter permitted, **Rabbi Yehuda deems** it **permitted** for a priest to derive benefit from the firstborn. **Rabbi Meir says: Since it was slaughtered not according to** the ruling of **an expert,**[H] it is **prohibited.** In a case involving **one who is not an expert, and he examined the firstborn**[H] animal **and it was slaughtered on the basis of his** ruling, **that** animal **must be buried,** and the non-expert **must pay** compensation to the priest **from his property.**

גמ׳ אָמַר רַבָּה בַּר בַּר חָנָה: בִּדְוִקִּין שֶׁבָּעַיִן – דִּכְווֹתֵי עָלְמָא לָא פְּלִיגִי דְּאָסוּר, מִפְּנֵי שֶׁהֵן מִשְׁתַּנִּין. לֹא נֶחְלְקוּ אֶלָּא בְּמוּמִין שֶׁבַּגּוּף, דְּרַבִּי מֵאִיר סָבַר: גָּזְרִינַן מוּמִין שֶׁבַּגּוּף אַטּוּ דִּוקִּין שֶׁבָּעַיִן, וְרַבִּי יְהוּדָה סָבַר: לָא גָּזְרִינַן מוּמִין שֶׁבַּגּוּף אַטּוּ דִּוקִּין שֶׁבָּעַיִן.

GEMARA **Rabba bar bar Ḥana says:** The dispute in the mishna between Rabbi Meir and Rabbi Yehuda does not apply in the case of a blemish **on the cornea of the eye.**[N] In that situation **everyone agrees that** the animal **is prohibited, because** such blemishes in the eye **change** after the animal's death, which means that there is no way of determining at that late stage whether it had been a permanent blemish or a temporary one. **They disagree only with regard to blemishes that** are **on the** animal's **body,** which do not change after death. **As Rabbi Meir holds** that **we issue a decree** prohibiting the animal in the case of **blemishes that** are **on the** animal's **body due to** the case of blemishes **on the cornea, and Rabbi Yehuda holds** that **we do not issue a decree** with regard to **blemishes that** are **on the** animal's **body due to** the case of blemishes **on the cornea.**

NOTES

Thirty days are considered a complete year – שְׁלֹשִׁים יוֹם חֲשׁוּבִין שָׁנָה: This principle is applied in a variety of contexts. For example, if one plants a tree that takes root thirty days before the end of the year, on Rosh HaShana it is considered to already be in its second year (see *Rosh HaShana* 10b).

Blemish on the cornea [*dukkin*] of the eye – דּוּקִּין שֶׁבָּעַיִן: This term, which appears only in the Babylonian Talmud, refers to any small blemish in the eye (see *Tosefta*, *Bekhorot* 3:4). Rashi explains in his commentary on the Torah and on the Talmud (see mishna on 38a) that it is derived from the word "*duk*" in the verse: "Or crookbacked, or a dwarf [*duk*], or that has his eye overspread, or is scabbed, or scurvy, or has his stones crushed" (Leviticus 21:20). Based on Isaiah 40:22, this is understood to refer to a film covering the lens of the eye, and is probably what is referred to nowadays as a cataract. Some translate this term as cornea, or some other part of the eye. Rashi however, citing Isaiah 40:22 and Leviticus 21:20, seems to interpret this term as referring specifically to some ailment in the eye's membranes that impairs vision, possibly cataracts. Others explain that it is a general term for various ailments of the eye.

The blemish includes white or cloudy spots on the cornea, caused by an infection or a scar. This explains the continuation of the Gemara, which states that these blemishes change after death. Shortly after the death of an animal the cornea becomes clouded, which renders it impossible to identify any blemishes that were present before death.

HALAKHA

If it developed a blemish on the fifteenth day within its year – נוֹלַד לוֹ מוּם בַּחֲמִשָּׁה עָשָׂר יוֹם בְּתוֹךְ שְׁנָתוֹ: If a firstborn animal developed a blemish at the end of its first year, the owner may maintain the animal for thirty days from the day it developed the blemish, even if he thereby retains it past the animal's first year. How so? If the animal developed a blemish fifteen days before the end of the year, the owner may keep the animal until fifteen days into the following year. This ruling is in accordance with the *baraita* (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:9; *Shulḥan Arukh*, *Yoreh De'a* 306:8).

Since it was slaughtered not according to the ruling of an expert – הוֹאִיל וְנִשְׁחַט שֶׁלֹּא עַל פִּי מוּמְחֶה: If one slaughtered a firstborn and afterward showed the blemish to an expert, the animal is forbidden, as it was not slaughtered based on the ruling of an expert. This applies even if the blemish is evident and did not change as a result of the slaughter, e.g., if it is missing a limb. Rather, the carcass must be buried. This ruling is in accordance with the opinion of Rabbi Meir, as the *halakha* follows his opinion with regard to rabbinic decrees (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:4, and see *Kesef Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 310:1).

One who is not an expert and he examined the firstborn – מִי שֶׁאֵינוֹ מוּמְחֶה וְרוֹאֶה אֶת הַבְּכוֹר: If one who is not an expert examined a firstborn and it is slaughtered based on his ruling, the carcass must be buried, and the one who deemed it permitted must pay for the loss (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:6; *Shulḥan Arukh*, *Yoreh De'a* 310:3).

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תַּנְיָא נַמִּי הָכִי: הַשּׁוֹחֵט אֶת הַבְּכוֹר וּמַרְאֶה אֶת מוּמָיו – רַבִּי יְהוּדָה אוֹמֵר: בְּדּוּקִין שֶׁבָּעַיִן – אָסוּר, מִפְּנֵי שֶׁהֵן מִשְׁתַּנִּין, בְּמוּמִין שֶׁבַּגּוּף – מוּתָּר, מִפְּנֵי שֶׁאֵין מִשְׁתַּנִּין. רַבִּי מֵאִיר אוֹמֵר: אֶחָד זֶה וְאֶחָד זֶה – אָסוּר, מִפְּנֵי שֶׁהֵן מִשְׁתַּנִּין. מִפְּנֵי שֶׁהֵן מִשְׁתַּנִּין סָלְקָא דַּעְתָּךְ! מוּמִין שֶׁבַּגּוּף מִי מִשְׁתַּנִּין? אֶלָּא: מִפְּנֵי הַמִּשְׁתַּנִּין.

This is also taught in a *baraita*: In the case of **one who slaughters a firstborn** animal **and** afterward **shows its blemishes** to an expert, **Rabbi Yehuda says:** If the blemish is **on the cornea of the eye** the animal is **prohibited, because** such blemishes **change.** But **in** the case of **blemishes on its body** the animal is **permitted, because** these blemishes **do not change. Rabbi Meir says: Both this,** blemishes on the eye, **and that,** blemishes on the body, **are prohibited because they change.** The Gemara inquires: Could it **enter your mind** that blemishes on the body are prohibited **because they change? Do blemishes on the body change** after the death of the animal? **Rather,** the blemishes on the body are prohibited **due to** a decree based on the case of blemishes on the cornea, **which change.**

אָמַר רַב נַחְמָן בַּר יִצְחָק:

Rav Naḥman bar Yitzḥak says:

Perek **IV**
Daf **28** Amud **b**

NOTES

Conclude from this that Rabbi Meir penalizes him for not showing it to an expert – שְׁמַע מִינָּה קָנָסָא קָא קָנֵיס רַבִּי מֵאִיר: Some commentaries maintain that this is not similar to a penalty that the Sages imposed on one who transgresses, as it is stated: Since it was slaughtered, rather than: Since he slaughtered it. This indicates that even if one who is not the priest with the right to the firstborn slaughters the animal, it is prohibited. Rather, the term penalty in this context means that this ruling is a decree, so that people should not come to slaughter a firstborn that has a blemish that can change (Ramban). By contrast, Rashi on *Beitza* 27a explains that this is an actual penalty applied to the priest who slaughters the animal without showing it to an expert. If someone other than a priest performs the slaughter, Rabbi Meir does not deem the meat forbidden to a priest. Although the Gemara later explains that it is a decree rather than a penalty, if it was not an action deserving of penalty Rabbi Meir would not have issued a decree with regard to it (*Tosafot Ḥitzoniyyot*).

PERSONALITIES

Rabbi Yoshiya from Usha – רַבִּי יאֹשִׁיָּה דְּמִן אוּשָׁא: This is an *amora* generally referred to as Rabbi Yoshiya. He lived in Eretz Yisrael during the third generation of *amora'im*. Originally from Babylonia, Rabbi Yoshiya studied there under Rav and Shmuel, after which he emigrated to Eretz Yisrael and learned mainly from Rabbi Yoḥanan and his greatest students. He lived in the city of Usha, where he apparently was the head of the court. Many of his directives and *halakhot* are found in the Jerusalem Talmud, and some of his statements are also found in the Babylonian Talmud.

מַתְנִיתִין נַמִּי דַּיְקָא; רַבִּי מֵאִיר אוֹמֵר: הוֹאִיל וְנִשְׁחַט שֶׁלֹּא עַל פִּי מוּמְחֶה – אָסוּר. שְׁמַע מִינָּה: קְנָסָא קָא קָנֵיס רַבִּי מֵאִיר, שְׁמַע מִינָּה.

The mishna is also precisely formulated, as it states that **Rabbi Meir says: Since it was slaughtered not according to** the ruling of **an expert,** it is **prohibited. Conclude from** this wording that **Rabbi Meir penalizes** him for not showing it to an expert.[N] In other words, this indicates that the animal is deemed prohibited as a penalty. It is not due to any uncertainty, as blemishes on the body do not change after death, but it is due to a rabbinic decree. The Gemara comments: **Conclude from** it that the mishna should be understood as Rabba bar bar Ḥana explained.

אִיבַּעֲיָא לְהוּ: "מִפְּנֵי הַמִּשְׁתַּנִּין" – וְכוּלְּהוּ מִשְׁתַּנִּי, אוֹ דִלְמָא – אִיכָּא דְּמִשְׁתַּנִּי וְאִיכָּא דְּלָא מִשְׁתַּנִּי?

A dilemma was raised before the Sages: The *baraita* states: **Due to** the blemishes on the cornea, **which change. But** does this mean that **all** blemishes **on** the cornea of the eye definitely **change** after the death of the animal? **Or perhaps there are** some **that change** after death **and there are** others **that do not change.**

לְמַאי נָפְקָא מִינָּה – לְאַכְחוּשֵׁי סָהֲדֵי; אִי אָמְרַתְּ: כּוּלְּהוּ מִשְׁתַּנִּי – שַׁקְרֵי נִינְהוּ, וְאִי אָמְרַתְּ: אִיכָּא דְּמִשְׁתַּנִּי וְאִיכָּא דְּלָא מִשְׁתַּנִּי – סָמְכִינַן עֲלַיְיהוּ. מַאי?

The Gemara asks: **What is the** practical **difference** of this dilemma? The Gemara explains: The difference is **with regard to contradicting witnesses** who claim that the animal had the identical blemishes in its eye when it was alive. **If you say** that **all** corneas **change** after the death of the animal, **they are liars. But if you say** that **there are** some **that change** after death **and there are** others **that do not change,** the court **relies on** such witnesses. Therefore, **what** is the resolution of the dilemma?

תָּא שְׁמַע, דְּאָמַר רַבָּה בַּר בַּר חָנָה: שָׁח לִי רַבִּי יאֹשִׁיָּה דְּמִן אוּשָׁא: בֹּא וְאַרְאֲךָ בְּדּוּקִין שֶׁהֵן מִשְׁתַּנִּים. מִדְּקָאָמַר לֵיהּ "בֹּא וְאַרְאֲךָ" – מִכְּלָל דְּאִיכָּא דְּמִשְׁתַּנִּי וְאִיכָּא דְּלָא מִשְׁתַּנִּי.

The Gemara answers: **Come** and **hear** a *baraita*, **as Rabba bar bar Ḥana says: Rabbi Yoshiya from Usha**[P] **told me: Come and I will show you the corneas that change. Since he said to him: Come and I will show you** those that change, one can conclude **by inference there are** some corneas **that change** after death **and there are** others **that do not change.**

"מִי שֶׁאֵינוֹ מוּמְחֶה וְרָאָה אֶת הַבְּכוֹר וְנִשְׁחַט עַל פִּיו – הֲרֵי זֶה יִקָּבֵר וִישַׁלֵּם מִבֵּיתוֹ". לֵימָא תְּנַן סְתָמָא כְּרַבִּי מֵאִיר? דִּלְמָא בְּדּוּקִין שֶׁבָּעַיִן, וְדִבְרֵי הַכֹּל.

§ The mishna teaches: In a case involving **one who is not an expert, and he examined the firstborn** animal **and it was slaughtered on the basis of his** ruling, **that** animal **must be buried,** and the non-expert **must pay** compensation to the priest **from his property.** The Gemara asks: **Shall we say** that **we learned** the **unattributed** mishna **in accordance with** the opinion of **Rabbi Meir,** who deems a firstborn animal forbidden in all cases where it was not slaughtered based on the ruling of an expert? The Gemara rejects this suggestion: No; **perhaps** this is referring only to a case where there was a blemish on **the cornea of the eye,** which changes after the death of the animal, **and everyone agrees** with the ruling of the mishna in such a case.

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תָּנָא: כְּשֶׁהוּא מְשַׁלֵּם – מְשַׁלֵּם רְבִיעַ לְדַקָּה, וּמֶחֱצָה לְגַסָּה. מַאי טַעְמָא? אָמַר רַב פַּפָּא: זֶה הֶפְסֵד מְרוּבֶּה וְזֶה הֶפְסֵד מוּעָט.

§ The Sages **taught** in a *baraita*: **When one pays** the priest for a firstborn that became forbidden, **he pays one-quarter of** the value of **a small** animal, i.e., a sheep or goat, **or half of** the value of **a large** animal,[NH] i.e., a bull. The Gemara asks: **What is the reason** for this discrepancy? **Rav Pappa says:** The loss of **this** bull **is** a relatively **great loss, and** the loss of **that** sheep or goat **is a small loss.**

אִי הָכִי, לִפּוּם פְּסִידָא לִישַׁלֵּם! אָמַר רַב הוּנָא בַּר מָנוֹחַ מִשְׁמֵיהּ דְּרַב אַחָא בַּר אִיקָא: מִשּׁוּם גְּזֵירַת מְגַדְּלֵי בְּהֵמָה דַּקָּה נָגְעוּ בָּהּ.

The Gemara raises a difficulty: **If so, let him pay in accordance with the** actual **loss** incurred. In other words, if he paid the same proportion of the value of a sheep or goat, he would still be paying less than half the value of a bull. **Rav Huna bar Manoaḥ says in the name of Rav Aḥa bar Ika:** The Sages **touched upon it** and determined that he should pay only one-quarter, **due to the decree** against those who **raise small livestock**[N] in Eretz Yisrael, as these animals cause damage to the land. As a result, such animals may be raised only in specific areas, which means the priest was spared exertion, and therefore the Sages required one to pay only one-quarter of the value.

מתני׳ דָּן אֶת הַדִּין; זִיכָּה אֶת הַחַיָּיב וְחִיֵּיב אֶת הַזַּכַּאי, טִימֵּא אֶת הַטָּהוֹר וְטִיהֵר אֶת הַטָּמֵא – מַה שֶּׁעָשָׂה עָשׂוּי, וִישַׁלֵּם מִבֵּיתוֹ. וְאִם הָיָה מוּמְחֶה לְבֵית דִּין – פָּטוּר מִלְּשַׁלֵּם.

MISHNA If a judge **issued a judgment** and erred, so that he **exempted a liable** party or **found an innocent** party **liable,**[H] or if he **ruled** that **a pure** item is **impure** or **ruled** that **an impure** item is **pure,** and by doing so he caused a litigant a monetary loss, then **what he did is done,** i.e., the judgment stands, **and** the judge **must pay** damages **from his home,** i.e., from his personal funds. **And if** the judge **was an expert for** the **court,** he is **exempt from** liability **to pay.**

גמ׳ לֵימָא תְּנַן סְתָמָא כְּרַבִּי מֵאִיר, דְּדָאֵין דִּינָא דְּגַרְמֵי? אָמַר רַבִּי אִילְעָא אָמַר רַב: כְּגוֹן שֶׁנָּשָׂא וְנָתַן בַּיָּד.

GEMARA The mishna teaches that a judge who errs must pay compensation for the damage he caused. The Gemara suggests: **Shall we say** that **we learned** the **unattributed** mishna **in accordance with** the opinion of **Rabbi Meir, who rules** that there is **liability** for damage caused by **indirect** action?[NH] **Rabbi Ile'a says** that **Rav says:** This is referring to a case **where** a judge **took** the item in question from one litigant **and gave** it to the other litigant **with** his **hand,** and therefore he directly caused the damage.

NOTES

He pays one-quarter of a small animal or half of a large animal – מְשַׁלֵּם רְבִיעַ לְדַקָּה וּמֶחֱצָה לְגַסָּה: The Gemara does not explain why he is not required to pay the full value of the animal. Rashi writes that there is uncertainty here, as perhaps the animal had no blemish at all and would never become blemished in the future, in which case he did not cause the priest any loss. Due to the uncertainty, the money is divided between the two parties. Other commentaries note that this principle that money with regard to which there is uncertainty is divided between the parties is only the opinion of Sumakhos, and this opinion is not accepted as *halakha* (*Tosafot*). Rather, in such a case the operative principle is that the burden of proof rests upon the claimant. Therefore, *Tosafot* state that this is a decree of the Sages, which does not follow the regular principles of monetary disputes. Alternatively, they suggest that this is the actual value of this animal, as it is uncertain whether or not it would ever be permitted to be eaten. Yet others suggest that the penalty is only half of the value because he spared the priest the cost of raising the animal until such time when it would become blemished (Ra'avad).

Due to the decree [*gezeirat*] against those who raise small livestock – מִשּׁוּם גְּזֵירַת מְגַדְּלֵי בְּהֵמָה דַּקָּה: Rashi provides two explanations. According to his first interpretation, the word *gezeirat* in this context means effort. Greater effort is required to raise small livestock, which offsets part of the loss incurred by slaughtering the small animal. Rashi's second explanation is that the lower sum is due to the Sages' decree against raising small livestock in Eretz Yisrael, as these animals cause damage in the fields of others. *Tosafot* combine these two explanations and state that the reason greater effort is involved in raising small livestock is that the decree of the Sages requires the owner to raise them in a remote area.

Liability for damage caused by indirect action [*dina degarmei*] – דִּינָא דְּגַרְמֵי: The concept of indirect action [*garmei*], for which one is liable according to Rabbi Meir, is apparently similar to the concept of causation [*gerama*], for which one is exempt according to all opinions. The Ra'avad explains the distinction between them as follows: Causation, for which one is exempt, is when the damage is caused by another factor; indirect action is when one indirectly causes damage himself, including by thought or speech. The Ramban composed an entire work, *Dina deGarmei*, discussing the fine distinctions between these terms. Some early commentaries disagree and hold that there is no distinction between the two concepts.

There is an opinion that liability for indirect action is a penalty imposed by the Sages in cases of negligence for which one would not normally be held liable (*Tosafot*). Others contend that one is liable by Torah law for damage caused by indirect action (Rav Hai Gaon; Ramban).

HALAKHA

He pays one-quarter of a small animal or half of a large animal – מְשַׁלֵּם רְבִיעַ לְדַקָּה וּמֶחֱצָה לְגַסָּה: In a case of one who is not an expert but nevertheless rules on the status of a firstborn, which is then slaughtered based on his ruling, the carcass must be buried and the non-expert must pay one-quarter of the value for a small type of animal or one-half of the value for a large type of animal. Outside of Eretz Yisrael, where the majority of land belongs to gentiles, he must pay half the value regardless of whether it is a large or small type of animal. When even within Eretz Yisrael the majority of land is owned by gentiles, it is permitted to raise small animals there (Ramban). Consequently, within Eretz Yisrael as well, the non-expert must pay half of the value as compensation (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:6; *Shulḥan Arukh*, *Yoreh De'a* 310:3).

If one issued a judgment and exempts a liable party, etc. – דָּן אֶת הַדִּין וְזִיכָּה אֶת הַחַיָּיב וכו׳: Sometimes, a tannaitic or amoraic dispute is left unresolved in the Talmud but there is a widespread practice to rule in accordance with one of the opinions. In a case where a judge erred in his deliberations concerning such a disputed matter by ruling counter to the widespread practice, if he is an expert judge, or one whom the litigants accepted to judge their case, the verdict is revoked. If the judgment cannot be revoked, the judge is exempt from liability to pay.

If a judge whom the litigants accepted to judge their case erred in his deliberations and then physically took the item in question from one litigant and transferred it to the other litigant, what he did is done, and he must reimburse the injured party. If he merely issued an errant ruling, then if he can revoke his ruling he should do so. If he cannot, he must reimburse the injured party. This is in accordance with the statement of Rav Ḥisda. If the litigants stipulated at the outset that they will abide by his ruling even if it is in error, or if the case is judged in a location where there is a community edict that only he is qualified to serve as a judge, he is exempt from liability to pay (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 6:2–3; *Shulḥan Arukh*, *Ḥoshen Mishpat* 25:2–3).

Liability for damage caused by indirect action – דִּינָא דְּגַרְמֵי: If a person causes indirect damage himself, he is liable, but if an animal causes indirect damage, its owner is not liable. Therefore, one who destroys a coin of another is liable, despite the fact that he has not caused him direct damage. Similarly, one who sells a promissory note to another and then forgives the debt must reimburse the purchaser (*Shulḥan Arukh*, *Ḥoshen Mishpat* 386:1).

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HALAKHA

Whose womb was removed – שֶׁנִּיטְּלָה הָאֵם שֶׁלָּהּ: An animal whose womb has been removed may be eaten. This *halakha* is based on the mishna in *Ḥullin* 54a (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 8:25; *Shulḥan Arukh*, *Yoreh De'a* 45:1).

BACKGROUND

Whose womb was removed – נִיטְּלָה הָאֵם שֶׁלָּהּ: A hysterectomy can be performed without endangering the life of an animal. In modern times this operation is not normally performed on animals, although it is performed on women when necessary. In ancient times, this procedure was performed in order to ensure a monopoly on certain kinds of animals.

Yavne – יַבְנֶה: Yavne, a town in Judea, was a center of Torah study during the Second Temple period. After the destruction of the Temple Rabban Yoḥanan ben Zakkai reestablished the Sanhedrin there, and the town attained great prominence as an important place of Torah study. As the seat of the Sanhedrin, Yavne was the spiritual heart of the entire Jewish population in Eretz Yisrael. The academy in Yavne, initially headed by Rabban Yoḥanan ben Zakkai and later by Rabban Gamliel II of Yavne, attracted many of the greatest Torah scholars of that era. In Yavne, many ordinances were enacted to restore Jewish religious and spiritual life after the destruction of the Temple. It remained an important center until the time of the bar Kokheva rebellion.

Alexandria – אֲלֶכְּסַנְדְּרִיָא: This port city, which lies west of the Nile Delta, was founded by Alexander the Great in 332 BCE. In its glory days, during Ptolemaic rule in Egypt until the end of the mishnaic period, Alexandria was one of the largest cities and cultural centers in the world. The greatest scientists, doctors, and artisans of the time lived in Alexandria, and Alexandrian doctors were renowned throughout the world. The Sages of the Talmud were familiar with Alexandrian doctors and held them in high regard, often praising the medical accomplishments of this important urban center.



Bust of Alexander the Great near the Alexandria Library

בְּשִׁלְמָא חַיֵּיב אֶת הַזַּכַּאי – כְּגוֹן שֶׁנָּשָׂא וְנָתַן בְּיָדוֹ. אֶלָּא זַכַּאי אֶת חַבָּיב, הֵיכִי דָּמֵי? אִי דַּאֲמַר לֵיהּ "פָּטוּר אַתָּה" – וְהָא לָא נָשָׂא וְנָתַן בְּיָדוֹ! אָמַר רָבִינָא: כְּגוֹן שֶׁהָיָה לוֹ מַשְׁכּוֹן וּנְטָלוֹ הֵימֶנּוּ.

The Gemara raises a difficulty: **Granted,** the case where he **finds an innocent** party **liable** is in a case **where** the judge **took** the item in question from the innocent party **and gave** it to the other litigant **with** his **hand. But what are the circumstances** of his giving the item from one to another with regard to the clause of: **He exempts a liable** party? It is **if** the judge **said to** the litigant only: **You are exempt** from liability to pay, **but** the judge **did not take** the item in question from one litigant **and give** it to the other litigant **with** his **hand. Ravina said:** It is referring to a case **where** the lender **had collateral** from the borrower, **and** the judge **took it from him** and gave it back to the other party.

טִימֵּא אֶת הַטָּהוֹר – דַּאֲגַע בְּהוּ שֶׁרֶץ, טִיהֵר אֶת הַטָּמֵא – שֶׁעֵירְבָן עִם פֵּירוֹתָיו.

In the case of: He **ruled** that **a pure** item is **impure,** how could he cause a loss with his own hands? It is **where** he **had** the litigant's ritually pure item **touch a creeping animal** to emphasize that he believes it was already impure, and he thereby imparted impurity to it. In the case of: He **ruled** that **an impure** item is **pure,** how could he cause a loss with his own hands? It is **where** he **mixed** this impure produce of the litigant's **with** the litigant's ritually pure **produce,** and he thereby caused all of the produce to be considered impure. When an expert judge later rules that that produce is actually impure, the result is that the entire mixture contains impure produce, and the judge caused this damage directly.

מתני' וּמַעֲשֶׂה בְּפָרָה שֶׁנִּיטְּלָה הָאֵם שֶׁלָּהּ, וְהֶאֱכִילָהּ רַבִּי טַרְפוֹן לַכְּלָבִים, וּבָא מַעֲשֶׂה לִפְנֵי חֲכָמִים בְּיַבְנֶה וְהִתִּירוּהָ.

MISHNA Apropos the previous mishna, which taught that a judge who was an expert for the court and who erred is exempt from payment, this mishna teaches: There was **an incident involving a cow whose womb was removed,**[HB] and when Rabbi Tarfon was consulted he ruled that it is an animal with a wound that will cause it to die within twelve months [*tereifa*], which is forbidden for consumption. **And** based on the ruling of **Rabbi Tarfon,**[P] the questioner **fed it to the dogs. And the incident came before the Sages** of the court **in Yavne,**[B] **and they ruled** that such an animal is **permitted** and is not a *tereifa*.

וְאָמַר תּוֹדוֹס הָרוֹפֵא: אֵין פָּרָה וַחֲזִירָה יוֹצְאָה מֵאֲלֶכְּסַנְדְּרִיָא שֶׁל מִצְרַיִם שֶׁאֵין חוֹתְכִין הָאֵם שֶׁלָּהּ בִּשְׁבִיל שֶׁלֹּא תֵּלֵד.

And Theodosius [*Todos*] **the doctor**[P] **said: A cow or pig does not emerge from Alexandria**[B] **of Egypt unless** the residents **sever its womb so that it will not give birth** in the future. The breeds of cows and pigs in Alexandria were of exceptional quality and the people of Alexandria did not want them reproduced elsewhere. The fact that these animals lived long lives after their wombs were removed proves that the hysterectomy did not render them *tereifot*.

אָמַר רַבִּי טַרְפוֹן: הָלְכָה חֲמוֹרְךָ, טַרְפוֹן! אָמַר לוֹ רַבִּי עֲקִיבָא: רַבִּי טַרְפוֹן, אַתָּה מוּמְחֶה לְבֵית דִּין – וְכָל הַמּוּמְחֶה לְבֵית דִּין פָּטוּר מִלְּשַׁלֵּם.

Upon hearing this, **Rabbi Tarfon said: Your donkey is gone, Tarfon,** as he believed he was required to compensate the owner for the cow that he ruled to be a *tereifa*. **Rabbi Akiva said to him: Rabbi Tarfon, you are an expert for** the **court, and any expert for** the **court is exempt from** liability **to pay.**

PERSONALITIES

Rabbi Tarfon – רַבִּי טַרְפוֹן: Rabbi Tarfon was one of the great *tanna'im* in the generation following the destruction of the Second Temple. He was a priest, and although he was young in the days when the Temple still stood, he apparently served in the Temple. Rabbi Tarfon lived in the town of Lod. He was likely the same age as the students of Rabbi Yoḥanan ben Zakkai, and may have even studied under him. He was also on close terms with Rabbi Eliezer and Rabbi Yehoshua, who called him Tarfon, my brother. Rabbi Tarfon spent much time in the great academy of Yavne, engaged in halakhic discussions with its important Sages. He first served as a kind of teacher to Rabbi Akiva, before becoming his colleague when Rabbi Akiva grew in stature. In fact, Rabbi Akiva and Rabbi Tarfon regularly engaged in discussions, and Rabbi Tarfon honored and admired him greatly. Together with Rabbi Yehuda, his chief disciple, several of the Sages of the next generation were his disciples.

Rabbi Tarfon was very wealthy and would give large sums of money to charity. His piety was well known, especially for the lengths to which he would go to fulfill the mitzva of honoring one's parents. Rabbi Tarfon's nephew was a student of Rabbi Yehuda HaNasi, as was Rabbi Tarfon's grandson, who became one of the preeminent Torah scholars of that generation.

Theodosius [*Todos*] the doctor – תּוֹדוֹס הָרוֹפֵא: This name was an abbreviation of the Greek name Θεόδωρος, *Theodoros*, meaning gift of God, equivalent to the Hebrew name Mattityahu. Theodosius the doctor, from the generation following the destruction of the Temple, was apparently a famous doctor in his time, and on several occasions the Sages were assisted by his professional advice.

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גמ׳ וְתֵיפּוֹק לֵיהּ דְּטָעָה בִּדְבַר מִשְׁנָה, וְטָעָה בִּדְבַר מִשְׁנָה – חַוֹּוֵר!

GEMARA The Gemara asks: **But let** Rabbi Akiva **derive** his ruling from the fact **that** Rabbi Tarfon **erred concerning a matter** that appears in the **Mishna,**[NH] as the ruling permitting an animal whose womb has been removed is recorded in a mishna (see *Ḥullin* 54a), **and** with regard to anyone who **erred concerning a matter** that appears in the **Mishna,** the decision **is revoked,**[N] as this is considered an obvious mistake. In other words, Rabbi Tarfon's decision was not binding, and therefore when the owner fed the cow to the dogs, he acted on the basis of a ruling with no validity and thereby caused his own loss.

חֲדָא וְעוֹד קָאָמַר: חֲדָא – דְּטָעָה בִּדְבַר מִשְׁנָה חַוֹּוֵר. וְעוֹד, אֲי נַמִי בְּשִׁיקּוּל הַדַּעַת טָעִיתָה – מוּמְחֶה לְבֵית דִּין אַתָּה, וְכָל הַמּוּמְחֶה לְבֵית דִּין פָּטוּר מִלְּשַׁלֵּם.

The Gemara answers: Rabbi Akiva **states one** reason **and** adds **another** reason. **One** reason is that in the case of one **who errs in a matter** that appears in the **Mishna,** the decision is **revoked. Another** reason is that **even if you erred in a deliberation, you are** a judge accepted as **an expert for the public, and any** judge accepted as **an expert for the public** is **exempt from** liability **to pay.**

מתני׳ הַנּוֹטֵל שָׂכָר לְהָיוֹת רוֹאֶה אֶת הַבְּכוֹרוֹת – אֵין שׁוֹחֲטִין עַל פִּיו, אֶלָּא אִם כֵּן הָיָה מוּמְחֶה

MISHNA In the case of an individual **who takes payment to be one who examines firstborn** animals to determine whether they are blemished, **one may not slaughter** the firstborn **on the basis of his** ruling, **unless he was an expert**

HALAKHA

That Rabbi Tarfon erred concerning a matter in the Mishna – דְּטָעָה בִּדְבַר מִשְׁנָה: With regard to an expert judge, or one whom the litigants accepted to render their judgment (*Shakh*; *Sma*), who judged a case of monetary law and erred, if the error was with regard to a well-known matter, such as *halakhot* stated explicitly in the Talmud or in the works of the halakhic authorities, the judge revokes the verdict and judges again in accordance with the *halakha*, as explained by Rav Sheshet, and as Ravina said to Rav. Some say that a judge is not bound by the rulings of the prior halakhic authorities and may choose to rule in accordance with his own understanding, provided there is no explicit ruling in the Talmud concerning that issue. Despite this, a judge may not rule leniently in a matter in which the universal custom is to be stringent. The *Arukh HaShulḥan* writes that every rabbi who was appointed by a city due to his expertise and knowledge of Torah is considered to be an expert whose judgment is accepted by the litigants (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 6:1; *Shulḥan Arukh*, *Ḥoshen Mishpat* 25:1, and in the comment of Rema).

NOTES

But let Rabbi Akiva derive it from the fact that Rabbi Tarfon erred concerning a matter in the Mishna – וְתֵיפּוֹק לֵיהּ דְּטָעָה בִּדְבַר מִשְׁנָה: Although the Mishna in its present form was redacted by Rabbi Yehuda HaNasi, who lived long after Rabbi Akiva, Rabbi Yehuda HaNasi was not the author of the *mishnayot*; rather, he compiled preexisting *mishnayot* that were known to the earlier generations of *tanna'im* (Maharatz Ḥayyut).

Some commentaries claim that if there was an explicit mishna in the time of Rabbi Tarfon, he certainly would not have forgotten it or erred in that manner. Rather, the Gemara means that because Theodosius the doctor testified that such an animal is not a *tereifa*, it is considered as though Rabbi Tarfon erred with regard to a matter that appears in the Mishna (*Sefat Emet*).

And with regard to anyone who erred concerning a matter in the Mishna the decision is revoked – וְטָעָה בִּדְבַר מִשְׁנָה חַוֹּוֵר: Since Rabbi Tarfon's ruling was invalid, the one who fed the carcass to his dogs was not doing so based on his ruling. Furthermore, Rabbi Tarfon does not have the status of one who caused damage, as he had no intent to cause damage (Rambam). Others explain that the judge is not liable because the questioner himself was negligent when he acted against an explicit ruling of a mishna (Ba'al HaMaor).

Perek **IV**
Daf **29** Amud **a**

כְּאִילָא בְּיַבְנֶה, שֶׁהִתִּירוּ לוֹ בְּיַבְנֶה חֲכָמִים לִהְיוֹת נוֹטֵל אַרְבַּע אִיסְרוֹת לִבְהֵמָה דַּקָּה וְשִׁשָּׁה לְגַסָּה, בֵּין תָּם וּבֵין בַּעַל מוּם.

like Ila in Yavne,[NH] **whom the Sages in Yavne permitted to take** a wage of **four *issar***[B] **for** issuing a ruling concerning **a small animal and six** *issar* **for** issuing a ruling concerning **a large animal.** They permitted this provided that he would be paid **whether** it turned out that the firstborn was **unblemished or whether** it was **blemished.**

גמ׳ מַאי טַעֲמָא? הַאי נָפֵישׁ טִירְחֵיהּ, וְהַאי לָא נָפֵישׁ טִירְחֵיהּ.

GEMARA The Gemara asks: **What is the reason** that the Sages in Yavne said that Ila could take a wage of four *issar* for issuing a ruling concerning a small animal but six *issar* for issuing a ruling concerning a large animal? The Gemara answers: Examining **this** one, a firstborn of a large animal, for blemishes involves **great effort; but** examining **that** one, the firstborn of a small animal, does **not** involve such **great effort.**

HALAKHA

Like Ila in Yavne – כְּאִילָא בְּיַבְנֶה: If one is paid to examine a firstborn animal, the animal may not be slaughtered based on his ruling, unless he is a great expert and the Sages know that he is unequaled, and they set a wage for his examination. The wage must be paid whether or not he finds a permanent blemish and deems the animal permitted. Furthermore, the wage is paid only once for each animal, even if the expert must examine it many times until he finds a blemish. This is to avoid casting any doubt on the honesty of the expert (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:7; *Shulḥan Arukh*, *Yoreh De'a* 312:1).

NOTES

Like Ila in Yavne, etc. – כְּאִילָא בְּיַבְנֶה וכו׳: Rashi explains that Ila was unique because he was known for his piety and was not suspected of deeming a firstborn permitted in exchange for money. The Ramban maintains that the mishna is teaching that there is no prohibition in a case where it is clear to all that the expert is merely receiving reimbursement for lost earnings. He contends that Ila was a well-known expert and everyone would bring their firstborn to him, which meant that he did not have time to do his regular work.

BACKGROUND

***Issar* – אִיסָּר:** An *issar* is a small coin worth one twenty-fourth of a silver dinar. An *issar* was typically made of copper. Its size is used as a measure in several places in the Gemara. Since there were different sizes and weights of the *issar*, occasionally the Gemara specifies that it is referring to an Italian rather than a Greek *issar*.

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״בֵּין תָּם וּבֵין בַּעַל מוּם״. בְּשִׁלָּמָא בַּעַל מוּם – מִשּׁוּם דְּקָא שָׁרֵי לֵיהּ, אֶלָּא תָּם אַמַּאי? דְּאִם כֵּן אָתֵי לְמִיחְשְׁדֵיהּ, וְאָמְרִי: הַאי בַּעַל מוּם – תָּם הוּא, וְהַאי דְּקָא שָׁרֵי לֵיהּ – מִשּׁוּם אַגְרָא.

§ The mishna teaches that one like Ila may take his wages provided that he would be paid **whether** it turns out that the firstborn is **unblemished or whether** it is **blemished.** The Gemara inquires: **Granted,** if the animal is **blemished** he takes his wages, **because he deems** the animal **permitted** to be slaughtered and eaten; **but** if he examined **an unblemished** animal, **why** does he take his wages? The Gemara answers **that if so,** i.e., if he would be paid for examining only a blemished animal, people **would come to suspect him and say** that **this** animal that he declared to be **blemished** is in fact **unblemished, and** he declared it blemished and thereby **deemed it permitted** to be eaten only **due to** the fact that he wanted to claim his **wages.**

אִי הָכִי, תָּם נַמִּי אָמְרִי: בַּעַל מוּם הוּא, וְהַאי דְּלָא קָשָׁרֵי לֵיהּ – סָבַר כִּי הֵיכִי דְּלִשְׁקוֹל אַגְרֵיהּ זִימְנָא אַחֲרִיתִי! חַד זִימְנָא תַּקִּינוּ לֵיהּ רַבָּנַן, תְּרֵי זִימְנֵי לָא תַּקִּינוּ לֵיהּ רַבָּנַן.

The Gemara challenges: **If so,** then in a situation where the examiner is paid either way, people might **also state** a similar claim with regard to one who rules that it is **an unblemished** animal. They may suspect that **this** animal is really **blemished, and** the reason that **this** expert **did not deem it permitted** is that **he holds** that it is preferable for him to declare it unblemished **so that he can collect his wages another time,** when he examines it later and declares it blemished. The Gemara answers: **The Sages** of Yavne **instituted** an ordinance that he may take his wages for examining a firstborn **once,** but **the Sages did not institute** that he may take his wages **twice** for examining the same animal. Since he will not get paid a second time for the same animal, he has no incentive to declare it unblemished if it has a blemish.

מתני׳ הַנּוֹטֵל שְׂכָרוֹ לָדוּן – דִּינָיו בְּטֵילִים, לְהָעִיד – עֵדוּתָיו בְּטֵילִין. לְהַזּוֹת וּלְקַדֵּשׁ – מֵימָיו מֵי מְעָרָה, אֶפְרוֹ אֵפֶר מִקְלֶה.

MISHNA In the case of **one who takes his wages to judge** cases,[H] **his rulings are void.** In the case of one who takes wages **to testify, his testimonies are void.**[H] With regard to one who takes wages **to sprinkle** the purification waters of the red heifer upon one who contracted impurity imparted by a corpse, **and** one who takes wages **to sanctify**[H] those waters, the halakhic status of **his water is** that of **cave water, and** the status of **his ashes is** that of mere **burnt ashes.**

אִם הָיָה כֹּהֵן, מְטַמְּאֵהוּ מִתְּרוּמָתוֹ – מַאֲכִילוֹ וּמַשְׁקֵהוּ וְסָכוֹ, וְאִם הָיָה זָקֵן – מַרְכִּיבוֹ עַל הַחֲמוֹר. וְנוֹתֵן לוֹ שְׂכָרוֹ כְּפוֹעֵל.

Although taking actual wages is prohibited, **if** the one examining the firstborn, or the judge, or the witness, **was a priest,**[H] and the one who requires his services **rendered him impure** and prevented him **from** partaking of **his *teruma*,** that person **must provide** the priest **with food, drink, and** oil for **smearing** on his body from his own non-sacred property. **And likewise if** the one examining the firstborn, or the judge, or the witness, **was an elderly person,** the one who requires his services **transports him on a donkey. And** in all these cases, although it is prohibited to take wages, the one who requires his services **gives him his wages like** the wages of **a laborer,** as he was unable to perform his usual labor that day.

HALAKHA

One who takes wages to judge cases – הַנּוֹטֵל שְׂכָרוֹ לָדוּן: If a judge receives money for issuing judgment, all his rulings are void, except for those with regard to which it is known that he did not receive any money. He may accept compensation for his lost earnings provided that it is evident that at the time he was judging he could have been earning money from his regular work (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 23:5; *Shulḥan Arukh*, *Ḥoshen Mishpat* 9:5).

To testify his testimonies are void – לְהָעִיד עֵדוּתָיו בְּטֵילִין: If one receives money for testifying, his testimony is disregarded. The *halakha* is the same as in the case of one who receives money to judge a case. If the witness returned the money, his testimony is valid. This applies to witnesses who have already seen the event and are obligated to testify. It is permitted to pay someone to go and witness an event that requires a witness (*Shulḥan Arukh*, *Ḥoshen Mishpat* 34:18, and in the comment of Rema).

To sprinkle and to sanctify – לְהַזּוֹת וּלְקַדֵּשׁ: If one accepts payment to sprinkle or sanctify the water of purification, his sprinkling or sanctification are of no consequence, and the water he sprinkled remains regular water. He may accept payment for wages lost during the time he performed these acts. It is permitted to receive payment for filling the vessel to hold the water of purification or bringing the water, in accordance with the opinion of Abaye (Rambam *Sefer Tahara*, *Hilkhot Para Aduma* 7:2).

If he was a priest, etc. – אִם הָיָה כֹּהֵן וכו׳: If one requests of an elderly person who is unable to walk to come to a distant place to sanctify the waters of purification or sprinkle them, he transports him on a donkey and pays him for lost earnings. If he asks a priest, who will have to become ritually impure on the way and will be unable to partake of *teruma*, he gives him food and drink in lieu of the *teruma* he is losing, in addition to any lost earnings (Rambam *Sefer Tahara*, *Hilkhot Para Aduma* 7:2).

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GEMARA

גמ׳ מְנָהֲנֵי מִילֵּי? אָמַר רַב יְהוּדָה אָמַר רַב, דְּאָמַר קְרָא: ״רְאֵה לִמַּדְתִּי אֶתְכֶם״ וגו׳, מָה אֲנִי בְּחִנָּם – אַף אַתֶּם בְּחִנָּם.

The mishna teaches that the rulings of one who takes wages to judge cases are void. The Gemara asks: **From where is this matter,** that a judge may not be paid for his rulings, derived?[N] **Rav Yehuda says** that **Rav says** that it is derived from a verse, **as the verse states: "Behold, I have taught you** statutes and ordinances, as the Lord my God commanded me, that you should do so in the midst of the land that you are going in to possess" (Deuteronomy 4:5). This teaches that **just as I,** Moses, learned the word of God **for free,**[H] **so too, you** learned it from me **for free,** and this is also how you should act with all future generations.

תַּנְיָא נַמִּי הָכִי: ״כַּאֲשֶׁר צִוַּנִי ה׳ אֱלֹהָי״, מָה אֲנִי בְּחִנָּם – אַף אַתֶּם בְּחִנָּם. וּמִנַּיִן שֶׁאִם לֹא מָצָא בְּחִנָּם, שֶׁיִּלְמַד בְּשָׂכָר? תַּלְמוּד לוֹמַר: ״אֱמֶת קְנֵה״. וּמִנַּיִן שֶׁלֹּא יֹאמַר: כְּשֵׁם שֶׁלָּמַדְתִּיהָ בְּשָׂכָר, כָּךְ אֲלַמְּדֶנָּה בְּשָׂכָר? תַּלְמוּד לוֹמַר: ״אֱמֶת קְנֵה וְאַל תִּמְכֹּר״.

This *halakha* **is also taught** in a *baraita*: "Behold, I have taught you statutes and ordinances, **as the Lord my God commanded me"** (Deuteronomy 4:5). **Just as I** learned from God **for free, so too, you** learned from me **for free. And from where** is it derived **that if** one **cannot find** someone to teach him **for free that he should learn** even **by** giving **payment? The verse states: "Buy the truth,** and do not sell it; also wisdom, and instruction, and understanding" (Proverbs 23:23). **And from where** is it derived **that** one **should not say: Just as I learned by** giving **payment, so too, I will teach it by** receiving **payment? The verse states: "Buy the truth, and do not sell it."**

״לְהַזּוֹת וּלְקַדֵּשׁ – מֵימָיו מֵי מְעָרָה, אֶפְרוֹ אֵפֶר מִקְלֶה״. וּרְמִינְהוּ: הַמְקַדֵּשׁ בְּמֵי חַטָּאת, בְּאֵפֶר חַטָּאת – הֲרֵי זוֹ מְקוּדֶּשֶׁת, אַף עַל פִּי שֶׁהוּא יִשְׂרָאֵל!

The mishna teaches: With regard to one who takes wages **to sprinkle** the purification waters of the red heifer, **and** one who takes wages **to sanctify** those waters, the halakhic status of **his water is** that of **cave water, and** the status of **his ashes is** that of mere **burnt ashes.** This indicates that one may not derive any benefit from the water or ashes of the red heifer. **And** the Gemara **raises a contradiction** from a mishna (*Kiddushin* 58a): With regard to **one who betroths** a woman **with the water of purification,**[H] **or with the ashes of purification, she is betrothed, and** this is the *halakha* **even if** the man betrothing her is **an Israelite,** not a priest or a Levite. This indicates that one may derive benefit from the waters or ashes of purification.

אָמַר אַבַּיֵי: לָא קַשְׁיָא, כָּאן – בְּשִׂכַר הֲבָאָה וּמִלּוּי, כָּאן – בְּשִׂכַר הַזָּאָה וְקִידּוּשׁ.

Abaye said: This is **not difficult,** since **there,** the mishna in *Kiddushin* is referring to one who betroths a woman **with** the value of **the payment for bringing** the ashes from afar **and filling**[N] the vessel with the purification water, for which it is permitted to accept payment. Performing this act for the woman is comparable to giving her an item of value, since she will not have to pay someone to bring and fill the vessel for her. **Here,** the mishna is referring **to payment for** the actual **sprinkling and sanctifying** of the ashes.

דַּיְקָא נַמִּי, דְּקָתָנֵי הָכָא: ״לְהַזּוֹת וּלְקַדֵּשׁ״, וְהָתָם קָתָנֵי: ״הַמְקַדֵּשׁ בְּמֵי חַטָּאת וּבְאֵפֶר חַטָּאת״, שְׁמַע מִינָּהּ.

The Gemara comments: According to this answer, the language of the two *mishnayot* is **also precise, as it teaches here: To sprinkle, or: To sanctify,** indicating that he receives payment for the actual sprinkling and sanctification; **and it teaches there,** in the mishna in *Kiddushin*, that she is betrothed **with the water of purification or with the ashes of purification,** which indicates that the water and ashes have not yet been mixed together. The Gemara affirms: **Learn from it** that this is the correct explanation of the *mishnayot*.

NOTES

From where is this matter derived – מְנָהֲנֵי מִילֵּי: The Gemara provides a source only for the prohibition against teaching Torah for wages, which includes issuing judgments. No source is given for the other cases of the mishna, i.e., giving testimony and sprinkling and sanctifying the ashes of the red heifer. Rashi on *Kiddushin* 58b explains that one who receives a wage for performing a mitzva has effectively accepted money for learning the *halakhot* of the mitzva, which is prohibited. Others contend that the case of teaching Torah is a paradigm for all the other mitzvot (Mahari ben Lev 1:19; see *Yad David*).

With the payment for bringing and filling – בְּשִׂכַר הֲבָאָה וּמִלּוּי: *Tosefot Rabbeinu Yitzḥak of Dampierre* explains that there are two ways of understanding the difference between payment for bringing the ashes and filling the water, as opposed to payment for sprinkling and sanctification. One explanation is that bringing the ashes and filling the water entails physical exertion, for which one is entitled to compensation. By contrast, the sprinkling and sanctification require no physical effort, only knowledge of the proper way to perform the rite. Alternatively, since the sprinkling and sanctification are the main elements of the mitzva, no payment can be accepted for them, whereas bringing the ashes and filling the water are merely preparation for the performance of the mitzva.

HALAKHA

Just as I learned for free – מָה אֲנִי בְּחִנָּם: In a place where it is customary to receive a wage for teaching the Written Torah, it is permitted to do so. It is prohibited to receive any wage for teaching the Oral Torah. This ruling is in accordance with the conclusion of the Gemara in *Nedarim* 37a. If one cannot find a teacher without paying, he may hire someone to teach him. Although he had to pay in order to learn, he may not say to himself: Just as I paid to learn, I will likewise receive payment to teach. Rather, he must teach others for free. This is in accordance with the *baraita*. Nowadays, the custom is to receive a wage to teach Torah, since if the teacher has no other way of earning a livelihood this is permitted. Even if he has another livelihood, he may receive payment for his lost earnings, as he leaves his business in order to teach (Rambam *Sefer HaMadda*, *Hilkhot Talmud Torah* 1:7; *Shulḥan Arukh*, *Yoreh De'a* 246:5).

One who betroths a woman with the waters of purification – הַמְקַדֵּשׁ בְּמֵי חַטָּאת: If one betroths a woman with the ashes of the red heifer or the waters of purification, she is betrothed. Some commentaries maintain that this is the *halakha* specifically if he betroths her with the money he earns by bringing the ashes and drawing the water, in accordance with the opinion of Abaye (Ra'avad). Others contend that when he betroths a woman with the ashes or water, he is actually betrothing her with the *peruta* he could have earned by selling this water to someone who does not wish to trouble himself to draw it and bring it (Rambam *Sefer Nashim*, *Hilkhot Ishut* 5:3, and see *Kesef Mishne* there).

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LANGUAGE

Corpse [*beit haperas*] – **בֵּית הַפָּרָס:** Some commentaries explain that *peras* mean broken, as the field became ritually impure when it was plowed and the bones were broken and scattered about (Rashi; *Tosafot*). Others interpret the term in the sense of spreading, *perisa*, as the impurity spreads over the entire area (Rambam). Some say it is derived from the Greek πάρος, *paros*, meaning before, as the field is like a courtyard around the grave. Finally, there are those who contend that it is from the Greek ἄπορος, *aporos*, a place through which one may not pass.

HALAKHA

To a *beit haperas* by rabbinic law – **לְבֵית הַפָּרָס דְּרַבָּנַן:** It is permitted for a priest to become ritually impure by entering a *beit haperas* or by leaving Eretz Yisrael in order to perform a mitzva. For example, he may go to marry a woman or to study Torah. This applies only if there is no alternative route. He may also become impure with rabbinic impurity for the sake of human dignity or a similar reason (Rambam *Sefer Shofetim*, *Hilkhot Evel* 3:14; *Shulḥan Arukh*, *Yoreh De'a* 372:1).

A person who passes through a *beit haperas* may blow – **מְנַפֵּחַ אָדָם בֵּית הַפָּרָס:** If one has to pass through a *beit haperas* on his way to sacrificing the Paschal offering, he may blow on the ground in front of him as he walks, and after passing through in this manner he may partake of the Paschal offering. Likewise, a *beit haperas* that has been trodden by others is considered ritually pure for those sacrificing the Paschal offering, in accordance with the statements of Shmuel and Ulla (Rambam *Sefer Korbanot*, *Hilkhot Korban Pesaḥ* 6:8).

"אִם הָיָה כֹּהֵן מְטַמְּאֵהוּ מִתְּרוּמָתוֹ" כו'. אִיהוּ גּוּפֵיהּ הֵיכִי אָזֵיל?

§ The mishna teaches: Although taking wages is prohibited, **if** the one examining the firstborn, or the judge, or the witness, **was a priest,** and the one who required his services **rendered him impure** and prevented him **from** partaking of **his *teruma*,** he must provide the priest with food, drink, and oil. The Gemara asks: But **he himself,** the priest, **how** was he permitted to **go** to a place that caused him to become impure? It is prohibited for a priest to render himself ritually impure.

לְבֵית הַפָּרָס דְּרַבָּנַן, דְּאָמַר רַב יְהוּדָה אָמַר רַב: מְנַפֵּחַ אָדָם בֵּית הַפָּרָס, וְהוֹלֵךְ.

The Gemara answers that this is referring to a case where he went **to an area in which uncertainty exists concerning the location of a grave or a corpse** [***beit haperas***],[L] into which it is prohibited **by rabbinic law**[NH] for a priest to enter. **As Rav Yehuda says** that **Rav says: A person** who passes through **a *beit haperas* may blow**[H] on the dust before taking each step, which would expose any bone beneath the dust, **and walk.** A priest may rely on that method of examination and enter the field.

NOTES

To a *beit haperas* by rabbinic law – **לְבֵית הַפָּרָס דְּרַבָּנַן:** A *beit haperas* is a field that possibly contains ritual impurity imparted by a corpse. A grave might have been plowed over in this location, scattering the bones from the corpse across the field. The Sages decreed that one who walks through such a field becomes ritually impure, as perhaps he trod on and moved a bone the size of a barley kernel. Likewise, the Sages decreed that anyone who touches or carries a clod of earth from such a field becomes impure. Nevertheless, according to Rashi the Sages rendered it permitted for a priest to walk through a *beit haperas* for the sake of performing a mitzva, as in the case of the mishna, provided that he blows the earth as he walks, checking for bone fragments. Even so, he becomes ritually impure and may not partake of *teruma*.

Others hold that it is permitted for a priest to walk through a *beit haperas* even if he is not performing a mitzva, provided that he blows the earth as he goes, and he does not become impure as a result. Furthermore, if the priest is on his way to perform a mitzva he may walk through a *beit haperas* even without blowing on the earth. In such a case he does become ritually impure (Rabbeinu Tam).

Perek **IV**
Daf **29** Amud **b**

וְרַב יְהוּדָה בַּר אַמִּי מְשַׁמֵּיהּ דְּרַב יְהוּדָה אָמַר: בֵּית הַפָּרָס שֶׁנִּידַּשׁ – טָהוֹר.

And Rav Yehuda bar Ami says in the name of Rav Yehuda: A *beit haperas* that has been trodden underfoot,[H] thereby creating a path, is **pure,** and one no longer needs to be concerned about bones, as the entire prohibition is a stringency by rabbinic law. Nevertheless, a priest who walks through such a field may not partake of *teruma* until he has purified himself.

אִי נַמִי: בִּשְׂאָר טוּמְאוֹת, דְּלָא מַזְהַר עֲלַיְיהוּ.

Alternatively, the Gemara suggests that the mishna is referring to a case where the priest becomes impure **with other** forms of **impurity,**[H] with regard to **which** priests **are not admonished.** A priest is prohibited from becoming impure only through contact with a corpse. Yet, he may not partake of *teruma* if he becomes impure even in any other manner.

HALAKHA

A *beit haperas* that has been trodden underfoot – **בֵּית הַפָּרָס שֶׁנִּידַּשׁ:** In a case where one passed through a field in which a grave was plowed, and a path had already been trodden there, he is ritually pure and may sacrifice the Paschal offering. Similarly, if, as he was passing through, he blew the dirt before him and did not find a bone capable of rendering him ritually impure, he is pure, as the Sages did not impose their decree where it would prevent the fulfillment of a mitzva carrying the penalty of *karet*, in accordance with the opinion of Rav Yehuda bar Ami (Rambam *Sefer Korbanot*, *Hilkhot Korban Pesaḥ* 6:8).

With other forms of impurity – **בִּשְׂאָר טוּמְאוֹת:** It is permitted for a priest to become impure with any type of impurity except for that which is imparted by contact with a corpse (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 16:9).

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״אִם הָיָה זָקֵן מַרְכִּיבוֹ עַל הַחֲמוֹר״. תָּנָא: כְּפוֹעֵל בָּטֵל. אָמַר אַבַּיֵי: כְּפוֹעֵל בָּטֵל שֶׁל אוֹתָהּ מְלָאכָה.

§ The mishna teaches: **If** the one examining the firstborn, or the judge, or the witness, **was an elderly person,** the one who required his services **transports him on a donkey.** And in all these cases, although it is prohibited to take wages, the one who required his services gives him his wages like the wages of a laborer, as he was unable to perform his usual labor that day. The Sages **taught** (*Tosefta*, *Bava Metzia* 4:11): The owner **gives him his wage as** if he were **an idle laborer. Abaye says:** It means that he is paid **as a laborer** who is **idle from that** typical **labor**[HN] of his from which he is kept idle. In other words, he must receive the amount of money a person would be willing to accept to refrain from his current occupation and engage in the actions discussed in the mishna. This calculation accounts for both the degree of difficulty of his steady employment and the amount of his remuneration.

מתני׳ הֶחָשׁוּד עַל הַבְּכוֹרוֹת – אֵין לוֹקְחִין מִמֶּנּוּ בְּשַׂר צְבָאִים, וְלֹא עוֹרוֹת שְׁאֵינָן עֲבוּדִים. רַבִּי אֱלִיעֶזֶר אוֹמֵר: לוֹקְחִין מִמֶּנּוּ עוֹרוֹת שֶׁל נְקֵבָה. וְאֵין לוֹקְחִין מִמֶּנּוּ צֶמֶר מְלוּבָּן וְצוֹאִי, אֲבָל לוֹקְחִין מִמֶּנּוּ טָוִי וּבְגָדִים.

MISHNA In the case of **one who is suspect with regard to firstborn**[H] animals of slaughtering them and selling their meat when it is prohibited to do so, **one may neither purchase** meat **from him,**[N] including **even deer meat, nor** may one purchase from him **hides that are not tanned. Rabbi Eliezer says: One** may **purchase hides of female animals from him,** as the *halakhot* of firstborn animals are in effect only with regard to males. **And one** may **not purchase bleached**[B] **or dirty wool from him. But one** may **purchase spun** thread[B] **from him, and** all the more so may one purchase **garments** from him.

גמ׳ ״בְּשַׂר צְבָאִים״. דְּמִיחַלַּף בִּדְעִגְלָה.

GEMARA The mishna teaches that one may not purchase from him even **deer meat.** The Gemara explains that the reason is **that** it could be **confused with** meat **of a calf,** as they are similar in appearance.

״וְלֹא עוֹרוֹת שֶׁאֵינָן עֲבוּדִים״. הָא עֲבוּדִים זָבְנִינַן; אִם אִיתָא דִּבְכוֹר הֲוֵה – לָא הֲוָה טָרַח בֵּיהּ, סָבַר: אִי שָׁמְעוּ בֵּיהּ רַבָּנַן, מַפְסְדוּ לִי מִינַּאי.

The mishna teaches: **Nor** may one purchase from him **hides that are not tanned.** The Gemara infers from here that **we** may **purchase tanned** hides from one who is suspect with regard to firstborn animals. The reason is that **if it is so that it is** a hide **of a firstborn, he would not make** such **an effort with it** to tan it. This is because he would **think: If the Sages hear that** this hide is from a firstborn, they will **cause me a loss** by confiscating it **from me.**

״רַבִּי אֱלִיעֶזֶר אוֹמֵר: לוֹקְחִין מִמֶּנּוּ עוֹרוֹת שֶׁל נְקֵבָה״. מַאי טַעֲמָא? מֵידַע יָדַע.

The mishna teaches that **Rabbi Eliezer says: One** may **purchase hides of female animals from him,** as the *halakhot* of firstborn animals are in effect only with regard to males. The Gemara asks: **What is the reason?** People **know** the difference between the hide of a male animal and the hide of a female animal, due to the differences in anatomy.

HALAKHA

As a laborer who is idle from that labor – כְּפוֹעֵל בָּטֵל שֶׁל אוֹתָהּ מְלָאכָה: If a judge receives a wage to judge, all of his judgments are nullified, unless it is known that he did not receive money for that specific case. It is permitted for him to receive a wage in lieu of lost earnings, on the condition that it is clear that he is taking only that amount, e.g., he has a certain employment for which he receives a wage, and he asks the litigants to each pay him half the amount that he is losing by judging instead of working. He may not do so if he has no definite employment. Therefore, he may not say to the litigants: Perhaps I will be able to make a certain amount of money by trading, and ask them to pay this amount. The *halakha* is based on the Gemara in *Ketubot* (105a). Furthermore, this applies only if he set the amount with the litigants before he heard the case. If he did not set the amount, he may claim only the wage of an idle laborer (Rambam *Sefer Shofetim*, *Hilkhot Sanhedrin* 23:5; *Shulḥan Arukh*, *Ḥoshen Mishpat* 9:5, and see *Sma* and *Pitḥei Teshuva* there).

One who is suspect with regard to firstborn – הֶחָשׁוּד עַל הַבְּכוֹרוֹת: If one is suspected of selling firstborn animals as non-sacred meat, others may not even purchase deer meat from him, as it is similar to the meat of calves. Furthermore, one may not buy untanned hides from him, even of female animals, lest he cut off the male sexual organ and claim that the hide is of a female. One may not purchase wool from him, even if it has been bleached. One may purchase spun wool and felt from him. It is also permitted to purchase tanned hides from him, as it is assumed that he would not expend the effort to tan hides of firstborn animals that might be confiscated from him by the court (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:8; *Shulḥan Arukh*, *Yoreh De'a* 311:1).

BACKGROUND

Bleached wool – צֶמֶר מְלוּבָּן: The process of cleaning rough wool differs from that of cleaning plant fibers. One cleans plant fibers by scrubbing away the unusable fibers and foreign materials. Wool, in addition to such cleaning, also requires a chemical bleach to remove the fatty substances, which can account for between 20 and 50 percent of the mass of the fleece.

Spun thread – טָוִי: Spinning turns plant or animal fibers into thread. First, the material must be cleaned and bunched into cords, after which it is twisted and stretched. The number of fibers are reduced and it is stretched into a single strand. This process creates threads that can then be woven into garments. The strength, thickness, and pliability of the thread all depend on the spinning process.



Arab man hand-spinning wool, Ramallah, c. 1919

NOTES

A laborer who is idle from that labor – כְּפוֹעֵל בָּטֵל שֶׁל אוֹתָהּ מְלָאכָה: The assessment is based on an evaluation of those who work in the same regular occupation as the one called upon to serve as a judge, witness, or examiner of the firstborn: How much would those in that same occupation be prepared to accept for taking a break from their work to provide that service (Rashi)? Some commentaries question this explanation, as this would mean that he is effectively receiving payment for providing that service (*Tosafot*). Instead, they maintain that the assessment is based on how much a worker in the same occupation would accept to sit idle. According to others, it is the amount a worker would accept to work at a time when he does not usually work, or when there is no work available for him (see *Tosafot* here, citing Rabbeinu Ḥananel, and *Tosafot* on *Bava Metzia* 31b; see also Rif and *Milḥamot HaShem* on *Bava Metzia* 68b).

One who is suspect with regard to firstborn animals, one may neither purchase from him – הֶחָשׁוּד עַל הַבְּכוֹרוֹת אֵין לוֹקְחִין מִמֶּנּוּ: This cannot be referring to one who is suspected of slaughtering unblemished firstborn animals and selling their meat as non-sacred. It is obvious that one may not purchase from such a person, since it is prohibited to derive any benefit from sanctified animals that were slaughtered outside of the Temple. Similarly, it cannot be referring to one who slaughters a blemished firstborn without a ruling from an expert, since the Sages ruled that the carcass of such an animal must be buried and it is prohibited to derive any benefit from it (see 28a and 37a). Rashi explains that the mishna is referring to a priest who is suspected of inflicting a blemish upon the firstborn animal and then slaughtering it and selling the meat (see 36a–b). The Sages penalized a priest who inflicts a blemish upon a firstborn, thereby transgressing a prohibition by Torah law (see 33b), by ruling that it is prohibited to eat or sell the animal, just as it was prohibited for him to slaughter the animal on account of this blemish (Maharit Algazi). Others explain that the suspicion is that he might be selling meat of a blemished firstborn, which may be consumed, as though it were non-sacred meat, for which one charges a higher price (*Tosefot Ḥadashim*, citing Rambam).

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וְתָנָא קַמָּא: אִם כֵּן, זָכָר נַמִּי – חָיֵיק לְזִכְרוּתֵיהּ, וְאָמַר: עַכְבָּרִים אֲכַלוּהּ! וְאִידָךְ: בֵּי עַכְבָּרִים מֵידַע יְדִיעַ.

The Gemara asks: **But** if so, according to **the first *tanna***, why is it prohibited to purchase hides of female animals from one who is suspect with regard to firstborn animals? The Gemara answers that the first *tanna* claims as follows: **If so,** i.e., if it is permitted to purchase hides of female animals, one might **also** come to sell hides of **male** animals, as he will **sever the male** reproductive organ **and say** that **mice ate** this part of the hide. The Gemara asks: **And the other,** Rabbi Eliezer, why is he not concerned that one might cut off that part of the hide and sell it as the hide of a female? The Gemara answers that Rabbi Eliezer maintains that the **place of** the **mice is known,** i.e., one can tell by looking at the hide whether it was eaten by mice or cut with a knife.

״וְאֵין לוֹקְחִין מִמֶּנּוּ צֶמֶר מְלוּבָּן וְצוֹאִי״. הָשְׁתָּא צֶמֶר מְלוּבָּן לָא זָבְנִינַן – צוֹאִי מִיבַּעְיָא? אֶלָּא חַדָּא קָתָנֵי: צֶמֶר מְלוּבָּן מִצּוֹאָתוֹ.

§ The mishna teaches: **And one** may **not purchase bleached or dirty wool from him.** The Gemara asks: **Now** that the mishna has taught that **we** may **not purchase bleached** wool **from him,** despite the fact he has expended effort in bleaching it, which indicates that it is not from a firstborn, **is** it **necessary** to teach that one may not purchase **dirty** wool from him? The Gemara answers: **Rather,** the *tanna* **is teaching one** case here, that of **wool** that was **bleached** and cleaned **from its dirt.**

״אֲבָל לוֹקְחִין מִמֶּנּוּ טְוִי וּבְגָדִים״. הָשְׁתָּא טְוִי זָבְנִינַן, בְּגָדִים מִיבָּעְיָא? מַאי בְּגָדִים – נַמְטֵי.

The mishna teaches: **But one** may **purchase spun** thread **from him, and** all the more so one may purchase **garments** from him. The Gemara asks: **Now** that the mishna has taught that **we may purchase spun** thread from one who is suspect with regard to firstborn, **is** it **necessary** to teach that one may purchase **garments?** The Gemara answers: **What** does the mishna mean which it says: **Garments?** It is referring to **felt** [***namtei***]^{L} garments, which are not made of spun thread.

מתני׳ הֶחָשׁוּד עַל הַשְּׁבִיעִית – אֵין לוֹקְחִין מִמֶּנּוּ פִּשְׁתָּן, וַאֲפִילּוּ סְרָק, אֲבָל לוֹקְחִין מֵהֶם טְוִי וְאָרִיג.

MISHNA In the case of **one who is suspect with regard to the Sabbatical** Year,^{H} i.e., of sowing or engaging in commerce with Sabbatical-Year produce, **one may not purchase flax from him,**^{N} **and** this applies **even** to **combed** flax, in which much labor and exertion was invested. **But one** may **purchase spun** thread **and woven** fabric **from** such individuals.

גמ׳ הָשְׁתָּא טְוִי זָבְנִינַן, אָרִיג מִיבָּעְיָא? מַאי אָרִיג – תִּיבֵּי.

GEMARA The Gemara asks: **Now** that the mishna has taught that **we may purchase spun** thread from one who is suspect with regard to the Sabbatical Year, **is** it **necessary** to teach the case of **woven fabric?** The Gemara answers: **What** does the mishna mean when it says: **Woven?** It means wool woven into **chains,** which is not spun.

מתני׳ הֶחָשׁוּד לִהְיוֹת מוֹכֵר תְּרוּמָה לְשׁוּם חוּלִּין – אֵין לוֹקְחִין מִמֶּנּוּ אֲפִילּוּ מַיִם וּמֶלַח, דִּבְרֵי רַבִּי יְהוּדָה; רַבִּי שִׁמְעוֹן אוֹמֵר: כָּל שֶׁיֵּשׁ בּוֹ זִיקַת תְּרוּמָה וּמַעַשְׂרוֹת אֵין לוֹקְחִין מִמֶּנּוּ.

MISHNA In the case of **one who is suspect with regard to selling *teruma*^{B} under the guise of non-sacred** produce,^{NH} **one** may **not purchase even water and salt from him;** this is **the statement of Rabbi Yehuda. Rabbi Shimon says: One** may **not purchase from him any** item **that has relevance to *teruma* and tithes.** However, one may purchase water and salt from him, as *teruma* and tithes do not apply to them.

LANGUAGE

Felt [*namtei*] – נַמְטֵי: From the Middle Persian term namat, meaning felt or bed covering. Felt is generally made from unspun fibers that are combed, layered, and then condensed by the application of pressure, heat, and moisture. The fibers combine to form a sheet that cannot subsequently be separated into threads.



Persian shepherds fashioning a wool felt robe

HALAKHA

One who is suspect with regard to the Sabbatical Year – הֶחָשׁוּד עַל הַשְּׁבִיעִית: If one is suspected of trading in or safeguarding produce of the Sabbatical Year, others may not purchase any item from him that has any connection to the Sabbatical Year. This is in accordance with the opinion of Rabbi Shimon in the mishna with regard to *teruma* (*Kesef Mishne*). One may not even purchase combed flax from him. It is permitted to buy spun threads and woven fabric from him (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 8:14).

One who is suspect with regard to selling *teruma* under the guise of non-sacred produce – הֶחָשׁוּד לִהְיוֹת מוֹכֵר תְּרוּמָה לְשׁוּם חוּלִּין: If one is suspected of selling *teruma* as non-sacred produce, others may not purchase any food from him that is in any way connected to *teruma*, e.g., fish innards that are mixed with olive oil. It is permitted to purchase produce from the storehouse of one who is suspect with regard to *teruma*, as he would be reluctant to mix his *teruma* with the rest of his produce, lest the entire lot be confiscated from him. This ruling is based on the Gemara on *Avoda Zara* 39b (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 12:16 and *Kesef Mishne* there).

NOTES

One may not purchase flax from him – אֵין לוֹקְחִין מִמֶּנּוּ פִּשְׁתָּן: There is a dispute in the Jerusalem Talmud (*Ma'aserot* 5:3) concerning the reason for this prohibition. Rabbi Ḥinnana holds that flax seeds are edible, and therefore the sanctity of the Sabbatical Year applies to them. Rabbi Mana maintains that the Sages instituted a penalty, as explained by Rabbi Yehuda in the next mishna, that one may not purchase even salt or water from one who is suspect with regard to produce of the Sabbatical Year. Some commentaries state that according to Rashi, the mishna is not concerned about the prohibition against trading Sabbatical-Year produce but rather about the possibility that the flax was planted during the Sabbatical Year, and everyone agrees that flax that was planted during the Sabbatical Year is prohibited (Rashash).

***Teruma* under the guise of non-sacred produce – תְּרוּמָה לְשׁוּם חוּלִּין:** If *teruma* is sold at the higher price of non-sacred produce, the purchaser will not treat it in the proper manner and might come to eat it in a state of ritual impurity.

BACKGROUND

***Teruma* – תְּרוּמָה:** Whenever the term *teruma* appears without qualification, it is referring to *teruma gedola*, the great *teruma*. The Torah commands that "the first fruit of your grain, of your wine, and of your oil" be given to a priest (Deuteronomy 18:4; see also Numbers 18:12). The Sages extended the scope of this mitzva to include all produce. This mitzva applies only in Eretz Yisrael. After the first fruits have been separated, a certain portion of the produce must be separated for priests. The Torah does not specify the amount of *teruma* that must be separated; one may theoretically fulfill his obligation by separating even a single kernel of grain from an entire crop. However, the Sages instituted a recommended measure: One-fortieth of the produce for a generous gift, one-fiftieth for an average gift, and one-sixtieth for a miserly gift. One may not separate the other tithes before separating *teruma*.

Teruma is sacred and may be eaten only by a priest and his household while they are in a state of ritual purity (see Leviticus 22:9–15). If *teruma* becomes ritually impure, it may no longer be eaten and must be burned. Nevertheless, it remains the property of the priest and he may benefit from its burning. Today, *teruma* is not given to the priests, as they can provide no definite proof of their priestly lineage. Nevertheless, the obligation to separate *teruma* remains. In practice, only a minuscule portion of the produce is separated.

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גמ׳ לַאֲתוּיֵי מַאי? לַאֲתוּיֵי קִרְבֵי דָּגִים, דְּמָעֲרְבִי בְּהוּ שֻׁמָּן זַיִת.

GEMARA The Gemara asks: **What is added** by Rabbi Shimon's statement that one may not purchase any item that has relevance to *teruma* and tithes from one who is suspect with regard to selling *teruma*? The Gemara answers: Rabbi Shimon's statement serves **to add fish innards** to this prohibition, **as** people **mix olive oil with them,** and it might be oil of *teruma*.

הַהוּא טַבָּחָא דַּהֲוָה חָשׁוּד לְזַבּוּנֵי

The Gemara relates: There was **a certain butcher who was suspected of selling**

Perek **IV**
Daf **30** Amud **a**

תַּרְבָּא דְּאַטְמָא בְּמַר דְּכַנְתָּא, קַנְסֵיהּ רָבָא לְזַבּוּנֵי אַפִּילּוּ אַמְגּוּזֵי. אֲמַר לֵיהּ רַב פַּפָּא לְרָבָא: כְּמַאן – כְּרַבִּי יְהוּדָה; אִי כְּרַבִּי יְהוּדָה – אַפִּילּוּ מַיִם וּמֶלַח נַמִי!

fat of the kidney adjacent to the **thigh,** which is forbidden, in place **of fat of the intestines,**[B] which is permitted. **Rava penalized him** and prohibited him **even from selling nuts.**[H] **Rav Pappa said to Rava: In accordance with** which opinion in the mishna is your ruling? It must be **in accordance with** the opinion of **Rabbi Yehuda. If it is in accordance with** the opinion of **Rabbi Yehuda,** then you should prohibit this butcher from selling **even water and salt.**

לְעוֹלָם רַבִּי שִׁמְעוֹן, וּבְאִיסּוּרָא דְּגוּפֵיהּ קָנְסִינַן לֵיהּ; סְתָם דְּרִדְקֵי גָּרוּ בְּאַמְגּוּזֵי, וְאָזֵיל וּמְשַׁבֵּשׁ לִבְנֵי טַבָּחֵי וְגָרֵי לְהוּ בְּאַמְגּוּזֵי, וּמַיְיתוּ לֵיהּ תַּרְבָּא דְּאַטְמָא, וּמְזַבֵּין לֵיהּ בְּמַר דְּכַנְתָּא.

Rava replied: **Actually,** my ruling is in accordance with the opinion of **Rabbi Shimon,** who holds that one is suspected only about those items that are related to the prohibition in question. **And we are** in fact **penalizing him with regard to** items related to **the prohibition itself.** How so? **Ordinary children are enticed by nuts, and** that individual **went and misled the children of butchers and enticed them with nuts, and they brought him fat of the** kidney that is adjacent to the **thigh, and he sold it as** though it were **fat of the intestines.**

מתני׳ הֶחָשׁוּד עַל הַשְּׁבִיעִית – אֵינוֹ חָשׁוּד עַל הַמַּעֲשְׂרוֹת, הֶחָשׁוּד עַל הַמַּעֲשְׂרוֹת – אֵינוֹ חָשׁוּד עַל הַשְּׁבִיעִית, הֶחָשׁוּד עַל זֶה וְעַל זֶה – חָשׁוּד עַל הַטָּהֳרוֹת. וְיֵשׁ שֶׁהוּא חָשׁוּד עַל הַטָּהֳרוֹת, וְאֵינוֹ חָשׁוּד לֹא עַל זֶה וְלֹא עַל זֶה. זֶה הַכְּלָל: הֶחָשׁוּד עַל דָּבָר, לֹא דָנוֹ וְלֹא מְעִידוֹ.

MISHNA **One who is suspect with regard to the Sabbatical** Year[H] **is not suspect with regard to tithes;** and likewise, **one who is suspect with regard to tithes is not suspect with regard to the Sabbatical** Year. **One who is suspect with regard to this,** the Sabbatical Year, **or with regard to that,** tithes, is **suspect with regard to** selling ritually impure foods as though they were **ritually pure** items.[NH] **But there are those who are suspect with regard to ritually pure** items[H] **who are not suspect with regard to this,** the Sabbatical Year, **nor with regard to that,** tithes. **This is the principle** with regard to these matters: Anyone **who is suspect with regard to** a specific **matter** may **neither adjudicate** cases **nor testify**[H] in cases involving that matter.

BACKGROUND

Intestines [*kanta*] – כְּנָתָא: This is referring to the permitted fat attached to the ileum, which is the final section of the small intestine, just before the food reaches the large intestine. There is disagreement as to whether *kanta* is the name of that part of the intestine, or the name of the fat attached to it.

NOTES

Is suspect with regard to ritually pure items – חָשׁוּד עַל הַטָּהֳרוֹת: According to Rashi, this means that he does not eat his non-sacred food in a state of ritual purity. Others explain that he is not particular about any rabbinic decree, including the impurity of foods and impurity of hands (Rambam's Commentary on the Mishna). Alternatively, he sells food that is ritually impure as though it were pure, since such food renders other food impure only by rabbinic law (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 8:16).

HALAKHA

Even from selling nuts – לְזַבּוּנֵי אַפִּילּוּ אַמְגּוּזֵי: One who is suspect with regard to a certain matter is suspect with regard to any related item that he sells. For example, if one is suspected of selling forbidden fat under the guise of permitted fat, and he tempts the children to come and purchase from him by giving them nuts, he is penalized and may not sell even nuts. This ruling is in accordance with the opinion of Rava (*Shulḥan Arukh*, *Yoreh De'a* 119:4).

One who is suspect with regard to the Sabbatical Year – הֶחָשׁוּד עַל הַשְּׁבִיעִית: One who is suspect with regard to produce of the Sabbatical Year is not suspect with regard to tithes. Likewise, one who is suspect with regard to tithes is not suspect with regard to produce of the Sabbatical Year. Although both apply by Torah law, the second tithe is stringent in that it must be brought to Jerusalem, while produce of the Sabbatical Year is stringent in that it cannot be redeemed (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 8:15).

One who is suspect with regard to this or…that is suspect with regard to ritually pure items – הֶחָשׁוּד עַל זֶה וְעַל זֶה חָשׁוּד עַל הַטָּהֳרוֹת: One who is suspected of selling produce of the Sabbatical Year or *teruma* as though it were non-sacred is also suspect with regard to ritually pure items. The reason is that one who is suspect with regard to a matter of Torah law is also suspect with regard to a matter of rabbinic law (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:11).

But there are those who are suspect with regard to ritually pure items – וְיֵשׁ שֶׁהוּא חָשׁוּד עַל הַטָּהֳרוֹת: One who is suspect with regard to ritually pure items is not suspect with regard to tithes or produce of the Sabbatical Year. The reason is that impure food that was sold on the presumption that it was pure renders other food impure only by rabbinic law, and one who is suspect with regard to rabbinic law is not suspect with regard to Torah law (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 8:16).

Anyone who is suspect with regard to a specific matter may neither adjudicate cases nor testify – הֶחָשׁוּד עַל דָּבָר לֹא דָנוֹ וְלֹא מְעִידוֹ: Although one who is suspect with regard to a specific matter is not considered trustworthy with regard to himself, he is trustworthy with regard to others. This is because there is a principle that a person does not sin for the benefit of others. Therefore, one who is suspect with regard to a specific matter may adjudicate and may testify in cases involving that matter. This ruling is in accordance with the opinion of Rabban Shimon ben Gamliel in the mishna on 35a. It is not in accordance with the unattributed mishna here, which is the opinion of Rabbi Meir. The Ra'avad rules in accordance with the unattributed mishna here (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 8:17; *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:11; and *Sefer Shofetim*, *Hilkhot Edut* 11:8; *Shulḥan Arukh*, *Yoreh De'a* 119:7).

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HALAKHA

כְּגוֹן – דַּהֲוָה חָשִׁיד לְתַרְוַיְיהוּ: If one had been suspect with regard to transgressing two prohibitions, and he repented concerning both of them, but subsequently he is suspected of transgressing one of them, even the more lenient of them, there is concern that he might have reverted to violating both, and he is once again considered suspect with regard to both. This ruling is in accordance with the opinion of Rabbi Yannai (*Shulḥan Arukh*, *Yoreh De'a* 119:6).

גמ' מַאי טַעֲמָא? שְׁבִיעִית לָא בָּעֵיָא חוֹמָה, מַעֲשֵׂר כֵּיוָן דְּבָעֵי חוֹמָה – חֲמִיר לֵיהּ.

GEMARA The mishna teaches that one who is suspect with regard to the Sabbatical Year is not suspect with regard to tithes. The Gemara asks: **What is the reason?** One is **not required** to eat produce of the **Sabbatical** Year within the **wall** of Jerusalem, and therefore he treats it lightly. As for second **tithe, since** one is **required** to eat it only within the **wall** of Jerusalem, it is possible that it seems more **stringent for him,** and therefore he is not suspect, despite the suspicions with regard to produce of the **Sabbatical** Year.

"הֶחָשׁוּד עַל הַמַּעֲשֵׂר". מַאי טַעֲמָא? מַעֲשֵׂר אִית לֵיהּ פְּדִיוֹן, שְׁבִיעִית כֵּיוָן דְּקָא מִיתַּסְרָא לֵיהּ, וְלֵית לֵיהּ פְּדִיוֹן – חֲמִירָא לֵיהּ.

The mishna teaches: **One who is suspect with regard to tithe** is not suspect with regard to the Sabbatical Year. The Gemara asks: **What is the reason?** The Gemara answers: Since **there is redemption** for **tithes,** one might treat them lightly. As for produce of the **Sabbatical** Year, **since it is** always **prohibited to him and there is no redemption** of it, it is possible that it seems more **stringent for him,** and therefore he is not suspect.

"הֶחָשׁוּד עַל זֶה וְעַל זֶה". כֵּיוָן דַּחֲשִׁיד אַדְּאוֹרַיְיתָא – כָּל שֶׁכֵּן שֶׁהוּא אַדְּרַבָּנַן.

The mishna teaches: **One who is suspect with regard to this,** the Sabbatical Year, **or with regard to that,** tithes, is suspect with regard to selling ritually impure foods as though they were ritually pure items. The Gemara explains: **Since he is suspect** with regard to matters that apply **by Torah law, all the more so that he** is suspect with regard to matters that are **by rabbinic law.** Eating non-sacred food in a state of ritual purity is an ordinance of the Sages; it does not apply by Torah law. Consequently, he is certainly not trusted with regard to that matter.

"וְיֵשׁ חֲשׁוּד עַל הַטָּהֳרוֹת". מַאי טַעֲמָא? נְהִי אַדְּרַבָּנַן חֲשִׁיד – אַדְּאוֹרַיְיתָא לָא חֲשִׁיד. וּרְמִינְהִי: נֶאֱמָן עַל הַטָּהֳרוֹת – נֶאֱמָן עַל שְׁבִיעִית; הָא חֲשִׁיד – חֲשִׁיד!

The mishna teaches: **But there are those who are suspect with regard to ritually pure** items who are not suspect with regard to this, the Sabbatical Year, or with regard to that, tithes. The Gemara asks: **What is the reason? Granted,** he is **suspect** with regard to prohibitions that are **by rabbinic law,** but **he is not suspect** with regard to prohibitions that are **by Torah law. And** the Gemara **raises a contradiction** from a *baraita*: If one is **trusted with regard to ritually pure** items he is **trusted with regard to** produce of the **Sabbatical** Year. It can be inferred from here that if he is **suspect** with regard to ritually pure items he is likewise **suspect** with regard to produce of the Sabbatical Year.

אָמַר רַבִּי אֶילְעַי: מַתְנִיתִין – כְּשֶׁרְאִינוּהוּ שֶׁנּוֹהֵג בְּצִינְעָא בְּתוֹךְ בֵּיתוֹ.

Rabbi Ilai says: The mishna is referring to a case **where they saw him practicing** stringencies with regard to produce of the Sabbatical Year and tithes **privately, within his home.** Since he himself is known to be trustworthy in these matters in private, he is not suspected of violating these prohibitions in his business, despite his lack of trustworthiness with regard to ritual purity.

רַבִּי יַנַּאי בְּרַבִּי יִשְׁמָעֵאל אָמַר: כְּגוֹן דַּהֲוָה חֲשִׁיד לְתַרְוַיְיהוּ, וַאֲתָא קַמֵּי רַבָּנַן וְקַבֵּיל אַתַּרְוַיְיהוּ, וַהֲדַר אִיחֲשַׁד אַחַד מִינַּיְיהוּ; דְּאָמְרִינַן, מִיגּוֹ דַּחֲשִׁיד אַהָא – חֲשִׁיד נַמֵּי אַאִידָךְ.

Rabbi Yannai, son of Rabbi Yishmael, said that there is an alternative answer: The *baraita* is referring to a case **where one was suspect with regard to both**[H] ritually pure items and produce of the Sabbatical Year, **and he came before the Sages and accepted** upon himself **that** he would observe **both of them, and afterward he was suspected with regard to one of them.** The reason for the *halakha* here is **that we say: Since he is suspect with regard to this** one of them, **he is also suspect with regard to the other** one. Although one of the prohibitions is more stringent than the other, the court has seen that he cannot be trusted to keep his word about either of them.

אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: זוֹ דִּבְרֵי רַבִּי עֲקִיבָא סְתִימְתָּאָה, אֲבָל חֲכָמִים אוֹמְרִים: חָשׁוּד עַל הַשְּׁבִיעִית – חָשׁוּד עַל הַמַּעֲשֵׂר.

§ The mishna teaches: One who is suspect with regard to the Sabbatical Year is not suspect with regard to tithes. **Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says: This is the statement of Rabbi Akiva, the unattributed.** Most unattributed statements of *tanna'im* were formulated by Rabbi Akiva's students and reflect his opinions. **But the Rabbis say:** One who is **suspect with regard to** produce of **the Sabbatical** Year **is suspect with regard to tithe.**

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מַאן חֲכָמִים? רַבִּי יְהוּדָה, דְּבְאַתְרֵיהּ דְּרַבִּי יְהוּדָה שְׁבִיעִית חֲמִירָא לְהוּ; דְּהַהוּא דַּהֲוָה קָרֵי לֵיהּ לְחַבְרֵיהּ "דַּיְּירָא בַּר דַּיְּירְתָּא", אֲמַר לֵיהּ: תֵּיתֵי לִי, דְּלָא אָכְלִי פֵּירוֹת שְׁבִיעִית כְּווָתָךְ.

The Gemara asks: **Who** are the Sages referred to here as **the Rabbis?** It is **Rabbi Yehuda, as in Rabbi Yehuda's locale they** considered produce of the **Sabbatical** Year an especially **stringent** prohibition.[H] Therefore, if a resident of that place was suspect with regard to the Sabbatical Year, he was certainly not trusted with regard to tithes. **As** in that locale, if **a certain** person **would call another: A convert, son of** a female **convert,** wishing to insult him, that person would **say to him** in reply: **I have** a blessing **coming to me, as I do not eat produce of the Sabbatical** Year **like you** do. This indicates that the accusation of eating produce of the Sabbatical Year was a great insult, since they treated the Sabbatical Year stringently.

אִיכָּא דְּאָמְרִי, אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: זוֹ דִּבְרֵי רַבִּי עֲקִיבָא סְתִימְתָּאָה, אֲבָל חֲכָמִים אוֹמְרִים: חָשׁוּד עַל הַמַּעֲשֵׂר – חָשׁוּד עַל הַשְּׁבִיעִית. וּמַאן חֲכָמִים – רַבִּי מֵאִיר הִיא, דְּאָמַר: חָשׁוּד לְדָבָר אֶחָד הָוֵי חָשׁוּד לְכָל הַתּוֹרָה כּוּלָּהּ.

There are those **who say** that **Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says: This is the statement of Rabbi Akiva, the unattributed. But the Rabbis say:** One who is **suspect with regard to tithe is suspect with regard to** produce of the **Sabbatical** Year. **And who** are the Sages referred to here as **the Rabbis? It is Rabbi Meir, who says:** One who is **suspect with regard to one matter is suspect with regard to the entire Torah.**

רַבִּי יוֹנָה וְרַבִּי יִרְמְיָה תַּלְמִידֵי רַבִּי זְעִירָא, וְאָמְרִי לָהּ: רַבִּי יוֹנָה וְרַבִּי זְעִירָא תַּלְמִידֵי רַבִּי יוֹחָנָן, חַד אָמַר: אֲבָל חֲכָמִים אוֹמְרִים: חָשׁוּד עַל הַשְּׁבִיעִית

The Gemara relates that **Rabbi Yona and Rabbi Yirmeya,** who were **students of Rabbi Zeira,** disagreed about this matter. **And some say** that it was **Rabbi Yona and Rabbi Zeira, students of Rabbi Yoḥanan,** who disagreed. **One said: But the Rabbis say** that one who is **suspect with regard to** produce of the **Sabbatical** Year

HALAKHA

They considered produce of the Sabbatical Year an especially stringent prohibition – שְׁבִיעִית חֲמִירָא לְהוּ: One who is suspected of transgressing a serious prohibition is also suspect with regard to a prohibition that entails a less severe punishment, unless that prohibition is considered by people to be more stringent, and in general they are more careful about it (*Shulḥan Arukh*, *Yoreh De'a* 119:5, and see *Beit Yosef* and *Shakh* there).

Perek **IV**
Daf **30** Amud **b**

חָשׁוּד עַל הַמַּעֲשֵׂר, וּמַאן חֲכָמִים – רַבִּי יְהוּדָה. וְחַד אָמַר: חָשׁוּד עַל הַמַּעֲשֵׂר – חָשׁוּד עַל הַשְּׁבִיעִית, וּמַאן חֲכָמִים – רַבִּי מֵאִיר.

is **suspect with regard to tithe. And who** are the Sages referred to here as **the Rabbis?** It is **Rabbi Yehuda,** as in his locale they treated the prohibition of produce of the Sabbatical Year stringently. **And** the other **one says: One who is suspect with regard to tithe is suspect with regard to** produce of the **Sabbatical** Year. **And who** are the Sages referred to here as **the Rabbis?** It is **Rabbi Meir.**

דְּתַנְיָא: עַם הָאָרֶץ שֶׁקִּיבֵּל עָלָיו דִּבְרֵי חֲבֵירוּת, וְנֶחְשַׁד לְדָבָר אֶחָד – נֶחְשָׁד לְכָל הַתּוֹרָה כּוּלָּהּ, דִּבְרֵי רַבִּי מֵאִיר. וַחֲכָמִים אוֹמְרִים: אֵינוֹ נֶחְשָׁד אֶלָּא לְאוֹתוֹ דָּבָר בִּלְבַד.

As it is taught in a *baraita* (*Tosefta*, *Demai* 2:4): With regard to **an *am ha'aretz,*** i.e., one who is unreliable with regard to ritual impurity and tithes, **who accepts upon himself** the commitment to observe **the matters** associated with ***ḥaver*[B] status,**[N] i.e., that he will be stringent in all matters observed by *ḥaverim*, including *teruma*, tithes, and *ḥalla*, and also undertake to eat only food that is ritually pure, and the Sages accepted him as trustworthy **but** subsequently he **was suspected with regard to one matter**[H] in which others saw him act improperly, **he is suspected with regard to the entire Torah.** This is the **statement of Rabbi Meir. And the Rabbis say: He is suspected only with regard to that particular matter.**

BACKGROUND

***Ḥaver* – חָבֵר:** A *ḥaver* is a member of a society or movement called the *ḥaverim*, which was active during and after the period of the Mishna. The *ḥaverim* were those who accepted upon themselves, in a special ceremony, to observe the code of *ḥaverim*, which consisted of the meticulous separation of *terumot* and tithes and the observance of ritual purity, which most ordinary people treated more casually. Generally speaking, a Torah scholar was considered a *ḥaver*, but a *ḥaver* was not necessarily a true Torah scholar. Nevertheless, *ḥaverim* were careful in mitzva observance and knowledgeable in practical *halakha*.

HALAKHA

An *am ha'aretz* who accepts…*ḥaver* status but was suspected with regard to one matter – עַם הָאָרֶץ שֶׁקִּיבֵּל...חֲבֵירוּת וְנֶחְשַׁד לְדָבָר אֶחָד: An *am ha'aretz* who accepts upon himself matters associated with *ḥaver* status but is suspect with regard to one matter is considered suspect with regard to that one matter alone. In general, one who is suspect with regard to a stringent matter is also suspect with regard to a more lenient matter. One who is suspect with regard to a lenient matter is not suspect with regard to a more stringent matter (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:9).

NOTES

Matters associated with *ḥaver* status – דִּבְרֵי חֲבֵירוּת: Some commentaries explain that *ḥaverim*, which literally means friends, refers to Torah scholars, whose friendship is true friendship for the sake of Heaven (Rambam's Commentary on the Mishna on *Demai* 3:2). Others maintain that they are called *ḥaverim* because those who separate from the rest of the community in order to be stringent in matters of ritual purity can join [*lehitḥaber*] with them (*Tiferet Yisrael*). The *Tosefta* (*Demai* 2:2) says: One who accepts upon himself to be stringent in four matters is accepted as a *ḥaver*: First, that he will not give *teruma* or tithes to an *am ha'aretz*; second, that he will not handle pure items near an *am ha'aretz*; third, that he will eat his non-sacred food in a state of ritual purity; and fourth, that he will be trustworthy to tithe all food that he eats, sells, or purchases. The *Tosefta* and the mishna indicate that there is a difference between the term *ne'eman*, which applies to one who is trustworthy with regard to tithes, and *ḥaver*, which refers to one who is also trustworthy with regard to ritual purity, among other matters. Other stringencies of a *ḥaver* are listed in *Avot deRabbi Natan* (chapter 41).

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הַגַּר שֶׁקִּיבֵּל עָלָיו דִּבְרֵי תוֹרָה, אֲפִילּוּ נֶחְשַׁד לְדָבָר אֶחָד – הֲוֵי חָשׁוּד לְכָל הַתּוֹרָה כּוּלָּהּ, וַהֲרֵי הוּא כְּיִשְׂרָאֵל מְשׁוּמָּד. נָפְקָא מִינָּה, דְּאִי קָדֵישׁ – קִידּוּשָׁיו קִידּוּשִׁין.

It is also taught in a *baraita* (*Tosefta, Demai* 2:4): With regard to **a convert who accepted upon himself** upon his conversion **matters of Torah,** i.e., all of the mitzvot, **even if he is suspect with regard to one matter** alone, **he is suspect with regard to the entire Torah, and he is** considered **like a Jewish transgressor**[H] [***meshummad***],[L] who habitually transgresses the mitzvot. The Gemara explains that the practical **difference** resulting from the fact that he is considered like a Jewish transgressor is **that if he betroths** a woman, **his betrothal is** a valid **betrothal,** and they are married. Although he is suspect with regard to the entire Torah, he does not return to his prior gentile status.

תָּנוּ רַבָּנַן: הַבָּא לְקַבֵּל דִּבְרֵי חֲבֵירוּת חוּץ מִדָּבָר אֶחָד – אֵין מְקַבְּלִין אוֹתוֹ; גּוֹי שֶׁבָּא לְקַבֵּל דִּבְרֵי תוֹרָה חוּץ מִדָּבָר אֶחָד – אֵין מְקַבְּלִין אוֹתוֹ. רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: אֲפִילּוּ דִּקְדּוּק אֶחָד מִדִּבְרֵי סוֹפְרִים.

The Sages taught in a *baraita*: In the case of **one who comes to accept upon himself** the commitment to observe **the matters** associated with ***ḥaver* status except for one matter,**[H] which he does not wish to observe, **he is not accepted,** and he is not trustworthy even with regard to those matters that he does wish to accept upon himself. Likewise, in the case of **a gentile who comes to** convert and takes upon himself to **accept the words of Torah except for one matter, he is not accepted** as a convert. **Rabbi Yosei, son of Rabbi Yehuda, says: Even** if he refuses to accept **one detail of rabbinic law,** he is not accepted.

וְכֵן בֶּן לֵוִי שֶׁבָּא לְקַבֵּל דִּבְרֵי לְוִיָּה, וְכֹהֵן שֶׁבָּא לְקַבֵּל דִּבְרֵי כְהוּנָּה, חוּץ מִדָּבָר אֶחָד – אֵין מְקַבְּלִין אוֹתוֹ, שֶׁנֶּאֱמַר: ״הַמַּקְרִיב אֶת דַּם הַשְּׁלָמִים״ וגו׳, הָעֲבוֹדָה הַמְסוּרָה לִבְנֵי אַהֲרֹן, כָּל כֹּהֵן שֶׁאֵינוֹ מוֹדֶה בָּהּ – אֵין לוֹ חֵלֶק בַּכְּהוּנָּה.

The *baraita* continues: **And similarly,** in the case of **a Levite who comes to accept the matters of a Levite,**[H] **or a priest who comes to accept the matters of priesthood, except for one matter, he is not accepted.**[N] **As it is stated:** "He among the sons of Aaron, **that sacrifices the blood of the peace offerings,** and the fat, shall have the right thigh for a portion" (Leviticus 7:33). This means that with regard to **the** Temple **service, which is handed** over **to the sons of Aaron, any priest who does not admit to it**[H] in its entirety **has no share in the priesthood.**

תָּנוּ רַבָּנַן: הַבָּא לְקַבֵּל דִּבְרֵי חֲבֵירוּת, אִם רְאִינוּהוּ שֶׁנּוֹהֵג בְּצִנְעָה בְּתוֹךְ בֵּיתוֹ – מְקַבְּלִין אוֹתוֹ, וְאַחַר כָּךְ מְלַמְּדִין אוֹתוֹ. וְאִם לָאו – מְלַמְּדִין אוֹתוֹ, וְאַחַר כָּךְ מְקַבְּלִין אוֹתוֹ. רַבִּי שִׁמְעוֹן בֶּן יוֹחַי אוֹמֵר: בֵּין כָּךְ וּבֵין כָּךְ – מְקַבְּלִין אוֹתוֹ, וְהוּא לָמֵד כְּדַרְכּוֹ וְהוֹלֵךְ.

The Gemara continues on a similar topic. **The Sages taught** in a *baraita*: In the case of **one who comes to accept upon himself** a commitment to observe **the matters** associated with ***ḥaver* status, if we have seen that he practices** such matters **in private, within his home, he is accepted,**[H] **and afterward he is taught** the precise details of being a *ḥaver*. **But if** we have **not** seen him act as a *ḥaver* in his home, **he is taught** first **and afterward accepted. Rabbi Shimon ben Yoḥai says: Whether** in **this** case **or that** case, **he is** first **accepted, and he** then **continues to learn in** the **usual manner,** i.e., as a *ḥaver* he learns from others how to behave.

תָּנוּ רַבָּנַן: מְקַבְּלִין לִכְנָפַיִם וְאַחַר כָּךְ מְקַבְּלִין לְטָהֳרוֹת, וְאִם אָמַר ״אֵינִי מְקַבֵּל אֶלָּא לִכְנָפַיִם״ – מְקַבְּלִין אוֹתוֹ. קִיבֵּל לְטָהֳרוֹת וְלֹא קִיבֵּל לִכְנָפַיִם – אַף לְטָהֳרוֹת לֹא קִיבֵּל.

The Sages taught in a *baraita*: An *am ha'aretz* who wishes to become a *ḥaver* **is accepted** first **with regard to hands,**[H] i.e., he is presumed to be stringent concerning the ritual purity of his hands by making sure to wash his hands before handling pure items, **and afterward he is accepted** as trustworthy **for purity** in general. **And if he says: I** wish to **accept** purity **only with regard to hands,**[N] **he is accepted** for this. If he wishes to **accept** upon himself the stringencies of a *ḥaver* **with regard to ritual purity but he does not accept** upon himself the stringencies **with regard to hands,** i.e., to wash his hands, which is a simple act, **he is not accepted even for purity** in general.

HALAKHA

He is like a Jewish transgressor – הֲרֵי הוּא כְּיִשְׂרָאֵל מְשׁוּמָּד: If a convert was not examined properly by the court, or if the mitzvot and their punishments were not made known to him, and he was circumcised and immersed in a ritual bath before three members of a court, he is a valid convert. Even if he subsequently returns to his previous ways and engages in idol worship, he is a Jew, and therefore if he betroths a Jewish woman his betrothal is valid (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 13:17; *Shulḥan Arukh*, *Yoreh De'a* 268:12).

One who comes to accept…*ḥaver* status except for one matter – הַבָּא לְקַבֵּל...חֲבֵירוּת חוּץ מִדָּבָר אֶחָד: One who wishes to accept upon himself matters of a *ḥaver* except for one matter is not accepted, in accordance with the ruling of the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:2).

A Levite who comes to accept the matters of a Levite – בֶּן לֵוִי שֶׁבָּא לְקַבֵּל דִּבְרֵי לְוִיָּה: It is a positive mitzva for a Levite to be ready and available to serve in the Temple, whether or not he wants to serve. A Levite who accepts upon himself all of the mitzvot related to Levites except for one is not accepted until he accepts all of them. This ruling is in accordance with the *baraita* (Rambam *Sefer Avoda*, *Hilkhot Kelei HaMikdash* 3:1).

Any priest who does not admit to it, etc. – כָּל כֹּהֵן שֶׁאֵינוֹ מוֹדֶה בָּהּ וכו׳: There are twenty-four gifts given to priests, all of which are signs of God's covenant with Aaron. Any priest who does not admit to their validity has no portion among the priests and is not entitled to receive any of these gifts (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 1:1).

If we have seen that he practices in private within his home he is accepted, etc. – רְאִינוּהוּ שֶׁנּוֹהֵג בְּצִנְעָה בְּתוֹךְ בֵּיתוֹ מְקַבְּלִין אוֹתוֹ וכו׳: With regard to one who wishes to accept the stringencies of being a *ḥaver*, if he is seen to be practicing matters of a *ḥaver* in the privacy of his own home, he is accepted. After he has been accepted, he is taught matters of purity and impurity. If he is not seen practicing matters of a *ḥaver* in private, he is first taught and afterward accepted. This *halakha* is in accordance with the opinion of the first *tanna* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:2).

Accepted with regard to hands – מְקַבְּלִין לִכְנָפַיִם: One who comes to accept the stringencies of being a *ḥaver* is first accepted for matters relating to the ritual purity of his hands, and afterward he is accepted for all matters of purity. If he says: I wish to accept only the purity of hands, he is accepted. If he wishes to accept other purity but not the purity of hands, he is not accepted, as stated in the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:2).

LANGUAGE

Transgressor [*meshummad*] – מְשׁוּמָּד: Although the meaning of this word is clear, its etymology remains uncertain. Some *ge'onim* write that it is a slightly abridged version of the term *meshu'amad*, whose Aramaic root, *ayin*, *mem*, *dalet*, connotes baptism as well as a pejorative reference to a chamber pot. Apparently, gentile scholars concurred with this interpretation, as censored editions of the Talmud replace this word with the term *mumar*. Others explain that the root of *meshummadim* is *shin*, *mem*, *dalet*, which means to curse in Aramaic. If so, *meshummad* literally means one who is cursed. Alternatively, it is from the Mandaic dialect of Aramaic, and it means to be deceived by heretical practices.

NOTES

A Levite…or a priest…he is not accepted – וְכֵן בֶּן לֵוִי...וְכֹהֵן...אֵין מְקַבְּלִין אוֹתוֹ: This is referring to the right to accept gifts of the priesthood or gifts of the Levites, e.g., first tithe. A Levite or priest who is not prepared to accept all the requirements of his status may not take his portion.

And if he says, I wish to accept purity only with regard to hands – וְאִם אָמַר אֵינִי מְקַבֵּל אֶלָּא לִכְנָפַיִם: This apparently contradicts the earlier statement that if he accepts the stringencies of a *ḥaver* except for one matter he is not accepted at all. Rashi explains that he is not refusing an entire matter, as he washes his hands before eating non-sacred food, which is the basic requirement of eating non-sacred food in a state of ritual purity. Others contend that this Gemara is not referring to one who accepts the stringencies of a *ḥaver* but to trustworthiness in general (*Mikdash David*).

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תָּנוּ רַבָּנַן: עַד כַּמָּה מְקַבְּלִין אוֹתוֹ? בֵּית שַׁמַּאי אוֹמְרִים: לְמַשְׁקִין – שְׁלֹשִׁים יוֹם, לִכְסוּת – שְׁנֵים עָשָׂר חוֹדֶשׁ. וּבֵית הִלֵּל אוֹמְרִים: אֶחָד זֶה וְאֶחָד זֶה – לִשְׁנֵים עָשָׂר חוֹדֶשׁ.

The Sages taught in a *baraita*: **Until when is he accepted,** i.e., how much time must elapse before he is considered trustworthy as a *ḥaver*? **Beit Shammai say: With regard to liquids, thirty days. With regard to** impurity of **clothing,** about which *ḥaverim* would be careful as well, **twelve months. And Beit Hillel**[P] **say: Both** with regard to **this,** liquids, **and that,** clothing, he must maintain the practice **for twelve months** before he is fully accepted as a *ḥaver*.

אִם כֵּן, הֲוָה לֵיהּ מִקּוּלֵי בֵּית שַׁמַּאי וּמֵחוּמְרֵי בֵּית הִלֵּל! אֶלָּא, בֵּית הִלֵּל אוֹמְרִים: אֶחָד זֶה וְאֶחָד זֶה – לִשְׁלֹשִׁים.

The Gemara raises a difficulty: **If so, this is** one **of** the rare cases of **the leniencies of Beit Shammai and of the stringencies of Beit Hillel,** and yet it is not included in tractate *Eduyyot*, which lists all of the cases where Beit Shammai are more lenient than Beit Hillel. **Rather,** the text of the *baraita* must be emended so that it reads: **Beit Hillel say: Both** with regard to **this,** liquids **and that,** clothing, he must maintain the practice **for thirty** days[H] before he is fully accepted as a *ḥaver*.

(סימן: חָבֵר, תַּלְמִיד, תְּכֵלֶת, מֶכֶס, חָזַר, גַּבָּאִי, בְּעַצְמוֹ).

§ The Gemara provides **a mnemonic**[B] to remember the topics from here until the end of the chapter: ***Ḥaver*; student; sky-blue dye** [***tekhelet***]**; tax; return;** tax **collector; by himself.**

תָּנוּ רַבָּנַן: הַבָּא לְקַבֵּל דִּבְרֵי חֲבֵירוּת – צָרִיךְ לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים, וּבָנָיו וּבְנֵי בֵיתוֹ – אֵינָן צְרִיכִין לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: אַף בָּנָיו וּבְנֵי בֵיתוֹ צְרִיכִין לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים, לְפִי שֶׁאֵינוֹ דּוֹמֶה חָבֵר שֶׁקִּיבֵּל לְבֶן חָבֵר שֶׁקִּיבֵּל.

The Sages taught in a *baraita*: **One who comes to accept upon himself** a commitment to observe **the matters** associated with ***ḥaver* status must accept** it **in the presence of three *ḥaverim*.**[H] **But his children and** the **members of his household are not required to accept** the status of *ḥaver* separately **in the presence of three *ḥaverim*. Rabban Shimon ben Gamliel says: Even his children and** the **members of his household must accept** the status of *ḥaver* **in the presence of three *ḥaverim*, because a *ḥaver*, who accepted it** himself in the presence of three others, **is not comparable to the son of a *ḥaver*,** who **accepted** that status only due to his father but did not accept it himself explicitly, and their accepting the status not in the presence of three people is insufficient.

תָּנוּ רַבָּנַן: הַבָּא לְקַבֵּל דִּבְרֵי חֲבֵירוּת – צָרִיךְ לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים, וַאֲפִילּוּ תַּלְמִיד חָכָם צָרִיךְ לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים. זָקֵן וְיוֹשֵׁב בִּישִׁיבָה – אֵינוֹ צָרִיךְ לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים, שֶׁכְּבָר קִיבֵּל עָלָיו מִשָּׁעָה שֶׁיָּשַׁב. אַבָּא שָׁאוּל אוֹמֵר: אַף תַּלְמִיד חָכָם אֵינוֹ צָרִיךְ לְקַבֵּל בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים, וְלֹא עוֹד אֶלָּא שֶׁאֲחֵרִים מְקַבְּלִין לְפָנָיו.

The Sages taught in a *baraita*: **One who comes to accept upon himself** a commitment to observe **the matters** associated with ***ḥaver* status must accept** it **in the presence of three *ḥaverim*, and even a Torah scholar** who wishes to become a *ḥaver* **must accept** the status of *ḥaver* **in the presence of three *ḥaverim*.** But **an elder who sits** and studies Torah **in a yeshiva**[H] **is not required to accept** the status of *ḥaver* **in the presence of three *ḥaverim*, as he already accepted it upon himself from the moment he sat** and dedicated himself to study Torah in yeshiva. **Abba Shaul says: Even a Torah scholar is not required to accept**[H] the status of *ḥaver* **in the presence of three *ḥaverim*; and not only** does he have the status of *ḥaver* without an explicit declaration in the presence of three *ḥaverim*, **but others** can **accept** that they wish to become a *ḥaver* **in his presence.**

אָמַר רַבִּי יוֹחָנָן: בִּימֵי בְּנוֹ שֶׁל רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס נִשְׁנֵית מִשְׁנָה זוֹ; רַבִּי יְהוּדָה וְרַבִּי יוֹסֵי אִיסְתַּפֵּק לְהוּ מִילְּתָא בְּטָהֳרוֹת, שְׁדָרוּ רַבָּנַן לְגַבֵּי בְּנוֹ שֶׁל רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס, אֲזִילוּ אִמְרוּ לֵיהּ: לְעַיֵּין בָּהּ. אַשְׁכְּחוּהּ דְּקָא טָעֵין טָהֳרוֹת, אוֹתֵיב רַבָּנַן מִדִּידֵיהּ לְגַבַּיְיהוּ, וְקָאֵי אִיהוּ לְעֵיוּנֵי בָּהּ.

Rabbi Yoḥanan says: This mishna, i.e., the ruling that a Torah scholar must declare his intent to become a *ḥaver* in the presence of three *ḥaverim*, **was taught in the days of the son of Rabbi Ḥanina ben Antigonus.** At that time, **Rabbi Yehuda and Rabbi Yosei were uncertain about** a certain **matter of ritual purity. The Sages sent** a delegation of their students **to the son of Rabbi Ḥanina ben Antigonus** and told them to **go** and **tell him to examine** this matter. The students **found him while he was carrying** items that were ritually **pure.** The son of Rabbi Ḥanina ben Antigonus **seated Sages from his own** yeshiva **next to** the students who came to ask the question, because he did not trust these students to keep his items pure. **And he stood and examined** the matter.

אֲתוֹ אָמְרוּ לֵיהּ לְרַבִּי יְהוּדָה וְרַבִּי יוֹסֵי. אָמַר לְהוּ רַבִּי יְהוּדָה: אֲבִיו שֶׁל זֶה בְּיָדוּעַ תַּלְמִידֵי חֲכָמִים, אַף הוּא מְבַזֶּה תַּלְמִידֵי חֲכָמִים!

The students returned and **came and told Rabbi Yehuda and Rabbi Yosei** that the son of Rabbi Ḥanina ben Antigonus had treated them as though they had the status of *amei ha'aretz*. **Rabbi Yehuda said to them** in anger: **This one's father,** i.e., Rabbi Ḥanina ben Antigonus, **degraded Torah scholars** by not trusting them with matters of ritual purity. And **he too,** the son of Rabbi Ḥanina ben Antigonus, **degrades Torah scholars.**

PERSONALITIES

Beit Shammai and Beit Hillel – בֵּית שַׁמַּאי וּבֵית הִלֵּל: These are the groups of disciples of the Sages Hillel and Shammai the Elder. Although there are only three recorded disputes between Hillel and Shammai themselves, their students were relentless adversaries who served together in the Sanhedrin at the end of the Second Temple period and after its destruction, and they engaged in disputes concerning many points of *halakha*. With regard to the disagreements of these two houses, the mishna states (*Avot* 5:20): Any dispute waged for the sake of Heaven shall ultimately be of lasting worth, but any that is not waged for the sake of Heaven shall ultimately lead to no permanent result. Which dispute was an example of one waged in the service of Heaven? The dispute of Hillel and Shammai. And which was not for the sake of Heaven? The dispute of Korah and his company. Beit Shammai generally ruled more stringently than Beit Hillel; the cases in which the opposite is true are listed in tractate *Eduyyot*. In most disputes between Beit Shammai and Beit Hillel, the *halakha* is in accordance with the opinion of Beit Hillel.

HALAKHA

Both this and that for thirty days – אֶחָד זֶה וְאֶחָד זֶה לִשְׁלֹשִׁים: With regard to one who wishes to become a *ḥaver*, once he has been accepted he is treated with suspicion for the first thirty days until he learns and becomes accustomed to matters of ritual purity. After thirty days his garments are considered to be pure even if he is not a Torah scholar, in accordance with the opinion of Beit Hillel (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:2).

In the presence of three *ḥaverim* – בִּפְנֵי שְׁלֹשָׁה חֲבֵירִים: One who wishes to accept the stringencies of a *ḥaver* must do so in the presence of three *ḥaverim*. His children do not need to make an explicit acceptance in the presence of three *ḥaverim*, as he teaches them and accustoms them to the ways of purity. This *halakha* is in accordance with the opinion of the first *tanna* (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 10:1).

An elder who sits in a yeshiva – זָקֵן וְיוֹשֵׁב בִּישִׁיבָה: An elder who sits and studies Torah in a yeshiva is not required to accept the status of a *ḥaver*, as he already accepted it when he sat down to learn, in accordance with the ruling of the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:4).

A Torah scholar is not required to accept – תַּלְמִיד חָכָם אֵינוֹ צָרִיךְ לְקַבֵּל: A Torah scholar is presumed to be stringent in matters of ritual purity. His is considered trustworthy and is not required to accept a commitment to observe these matters in the presence of three *ḥaverim*. After the Temple was destroyed, the priests accepted an extra stringency upon themselves to not give their pure food even to Torah scholars unless they have accepted a commitment to observe the matters related to *ḥaver* status. This is in accordance with the opinion of Abba Shaul and the conclusion of the Gemara with regard to the son of Rabbi Ḥanina ben Antigonus (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:3).

BACKGROUND

Mnemonic – סִימָן: Since the Talmud was studied orally for many generations, mnemonic devices were employed as an aid for remembering a number of items and the order in which they were taught.

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אָמַר לוֹ רַבִּי יוֹסֵי: כְּבוֹד זָקֵן יְהֵא מוּנָּח בִּמְקוֹמוֹ. אֶלָּא, מִיּוֹם שֶׁחָרַב בֵּית הַמִּקְדָּשׁ – נָהֲגוּ כֹּהֲנִים סִילְסוּל בְּעַצְמָן, שֶׁאֵין מוֹסְרִין אֶת הַטָּהֳרוֹת לְכָל אָדָם.

Rabbi Yosei said to him: Let the honor of the elder, i.e., both the father and son, **be left in its place.** He did not act in this manner to degrade Torah scholars. **Rather, from the day the Temple was destroyed, the priests were accustomed to act with a higher standard for themselves,** and they decided **that they will not pass ritually pure** items **to any** other **person.** Therefore, the son of Rabbi Ḥanina, as a priest, acted appropriately.

תָּנוּ רַבָּנָן: חָבֵר שֶׁמֵּת – אִשְׁתּוֹ וּבָנָיו וּבְנֵי בֵיתוֹ הֲרֵי הֵן בְּחֶזְקָתָן עַד שֶׁיֶּחְשְׁדוּ. וְכֵן חָצֵר שֶׁמּוֹכְרִין בָּהּ תְּכֵלֶת – הֲרֵי הִיא בְּחֶזְקָתָהּ עַד שֶׁתִּיפָּסֵל.

The Sages taught in a *baraita*: In the case of **a *ḥaver* that died,**[H] **his wife and children and members of his household retain their presumptive** status **until they are suspected** of engaging in inappropriate deeds. **And similarly,** in the case of **a courtyard in which one sells sky-blue dye,**[HB] **it retains its presumptive** status as a place in which fit sky-blue dye is sold **until it is disqualified** due to the merchant's unscrupulous behavior.

תָּנוּ רַבָּנָן: אִשָּׁה עַם הָאָרֶץ שֶׁנִּשֵּׂאת לְחָבֵר, וְכֵן בִּתּוֹ שֶׁל עַם הָאָרֶץ שֶׁנִּשֵּׂאת לְחָבֵר, וְכֵן עַבְדּוֹ שֶׁל עַם הָאָרֶץ שֶׁנִּמְכַּר לְחָבֵר – כּוּלָּן צְרִיכִין לְקַבֵּל דִּבְרֵי חֲבֵירוּת בַּתְּחִלָּה. אֲבָל אִשָּׁה חָבֵר שֶׁנִּשֵּׂאת לְעַם הָאָרֶץ, וְכֵן בִּתּוֹ שֶׁל חָבֵר שֶׁנִּשֵּׂאת לְעַם הָאָרֶץ, וְכֵן עַבְדּוֹ שֶׁל חָבֵר שֶׁנִּמְכַּר לְעַם הָאָרֶץ – אֵין צְרִיכִין לְקַבֵּל דִּבְרֵי חֲבֵירוּת בַּתְּחִלָּה.

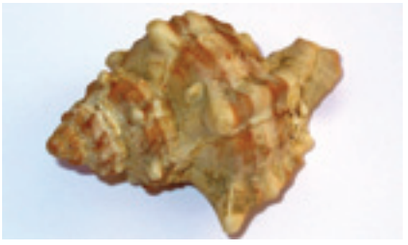
The Sages taught in a *baraita*: **The** former **wife an *am ha'aretz* who** later **marries a *ḥaver*,**[H] **and likewise the daughter of an *am ha'aretz* who marries a *ḥaver*, and likewise the slave of an *am ha'aretz* who is sold to a *ḥaver*, must all accept** upon themselves a commitment to observe **the matters** associated with ***ḥaver* status. But** with regard to **the** former **wife of a *ḥaver* who** later **marries an *am ha'aretz*, and likewise the daughter of a *ḥaver* who marries an *am ha'aretz*, and likewise the slave of a *ḥaver* who was sold to an *am ha'aretz*,** these people **need not accept** upon themselves a commitment to observe **the matters** associated with ***ḥaver* status *ab initio*,** as each of them is already accustomed to behave as a *ḥaver*.

רַבִּי מֵאִיר אוֹמֵר: אַף הֵן צְרִיכִין לְקַבֵּל עֲלֵיהֶן דִּבְרֵי חֲבֵירוּת לְכַתְּחִלָּה. רַבִּי שִׁמְעוֹן בֶּן אֶלְעָזָר אוֹמֵר מִשּׁוּם רַבִּי מֵאִיר: מַעֲשֶׂה בְּאִשָּׁה אַחַת שֶׁנִּשֵּׂאת לְחָבֵר, וְהָיְתָה קוֹמַעַת לוֹ תְּפִילִין עַל יָדוֹ, נִשֵּׂאת לְעַם הָאָרֶץ – וְהָיְתָה קוֹשֶׁרֶת לוֹ קִשְׁרֵי מוֹכֵס עַל יָדוֹ.

The *baraita* continues: **Rabbi Meir says: They too must accept** upon themselves a commitment to observe **the matters** associated with ***ḥaver* status *ab initio*. And similarly, Rabbi Shimon ben Elazar would** illustrate this point and **say in the name of Rabbi Meir:** There was **an incident involving a certain woman who married a *ḥaver* and would tie** [*koma'at*][L] **for him phylacteries on his hand,** and she later **married a tax collector and would tie for him tax seals**[B] **on his hand,** which shows that her new husband had a great influence on her level of piety.

BACKGROUND

Sky-blue dye [*tekhelet*] – תְּכֵלֶת: *Tekhelet* was made with a special dye produced from a species of sea creature. This dye was already rare in talmudic times, and the means of its preparation, including the precise identification of this sea creature, were eventually forgotten. In recent generations, efforts have been made to identify it and to resume use of the dye. One widely accepted identification today is the *Murex trunculus*. Other authorities have suggested the common cuttlefish, *Sepia officinalis*, or the raft snail, *Janthina janthina*.



Shell of the *Murex trunculus*



Common cuttlefish



Raft snail

Tax seals – קִשְׁרֵי מוֹכֵס: For many generations, in many places, almost until modern times, the right to collect taxes was granted by the ruler to a tax farmer who would collect the taxes on his behalf and pay him a fixed amount for the privilege. This tax farmer was permitted to pass on his right to deputies by a similar arrangement, according to which they would pay the primary tax farmer.

Since collecting taxes was the tax farmer's livelihood, and the more he collected the greater his profit, there was both temptation and opportunity for him to steal or force payment. He could exempt his friends and family from paying taxes and impose heftier taxes on others to make up the amount. For this reason a tax collector is considered a thief and a wicked person.

Apparently, the seals of the tax collector were some kind of badge given to those who collected the taxes to prove that they had the right to do so.

LANGUAGE

Tie [*koma'at*] – קוֹמַעַת: Meaning to fold or to crease; in this context it means to tie phylacteries or to fold the leather. The word *kamei'a*, meaning amulet, which is a text or herbs enclosed in a leather pouch intended for healing or other purposes, is also derived from this verb.

HALAKHA

A *ḥaver* that died – חָבֵר שֶׁמֵּת: The wife and children of a *ḥaver*, as well as his slaves and the members of his household, are considerd like *ḥaverim*. If a *ḥaver* dies, his wife, children, and members of his household retain the presumption of *ḥaverim* unless they are suspected of not being stringent. This *halakha* is in accordance with the opinion of the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:5 and *Sefer Zera'im*, *Hilkhot Ma'aser* 10:2).

A courtyard in which one sells sky-blue dye [*tekhelet*] – חָצֵר שֶׁמּוֹכְרִין בָּהּ תְּכֵלֶת: One may purchase *tekhelet* from a courtyard if there is a presumption that the *tekhelet* sold there is valid. One need not examine the *tekhelet* unless a suspicion arises that it is unfit. This *halakha* is in accordance with the ruling of the *baraita* (Rambam *Sefer Ahava*, *Hilkhot Tzitzit* 2:6).

The wife of an *am ha'aretz* who marries a *ḥaver*, etc. – אִשָּׁה עַם הָאָרֶץ שֶׁנִּשֵּׂאת לְחָבֵר וכו': If the former wife or daughter of an *am ha'aretz* marries a *ḥaver*, and likewise if the slave of an *am ha'aretz* is sold to a *ḥaver*, they must accept upon themselves the stringencies of a *ḥaver*. Conversely, if the former wife or daughter of a *ḥaver* marries an *am ha'aretz*, and similarly if the slave of a *ḥaver* is sold to an *am ha'aretz*, they are not required to accept upon themselves the stringencies of a *ḥaver*. This ruling is in accordance with the opinion of the first *tanna*. The son or slave of a *ḥaver* who frequents the company of an *am ha'aretz* must explicitly accept a commitment to observe the matters associated with *ḥaver* status (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:6 and *Sefer Zera'im*, *Hilkhot Ma'aser* 10:3).

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תָּנוּ רַבָּנַן: וְכוּלָּן שֶׁחָזְרוּ בָּהֶן – אֵין מְקַבְּלִין אוֹתָן עוֹלָמִית, דִּבְרֵי רַבִּי מֵאִיר. רַבִּי יְהוּדָה אוֹמֵר: חָזְרוּ בְּמַטְמוֹנִיּוֹת – אֵין מְקַבְּלִין אוֹתָן, בְּפַרְהֶסְיָא – מְקַבְּלִין אוֹתָן.

With regard to an *am ha'aretz* who accepts upon himself the stringent practices of a *ḥaver*, **the Sages taught** in a *baraita*: **And** with regard to **all of them, when they retract**[N] and return to being *amei ha'aretz*, **they are never accepted** as *ḥaverim*; this is **the statement of Rabbi Meir. Rabbi Yehuda says:** If **they retracted in private,** while in public they continue to act as *ḥaverim*, **they are not accepted,** but if they retract **in public** [***befarheseya***],[L] **they are accepted,** as they can be trusted.

אִיכָּא דְּאָמְרִי: אִם עָשׂוּ דִּבְרֵיהֶן בְּמַטְמוֹנִיּוֹת – מְקַבְּלִין אוֹתָן, בְּפַרְהֶסְיָא – אֵין מְקַבְּלִין אוֹתָן.

There are those **who say** another version of this discussion: If **they performed their actions** as *ḥaverim* even **in private,**[N] when they initially accepted the status of *ḥaverim*, then **they are accepted** when they wish to return to that status. Conversely, if they performed their actions as *ḥaverim* only **in public, they are not accepted.**

רַבִּי שִׁמְעוֹן וְרַבִּי יְהוֹשֻׁעַ בֶּן קָרְחָה אוֹמְרִים: בֵּין כָּךְ וּבֵין כָּךְ מְקַבְּלִין אוֹתָן, מִשּׁוּם שֶׁנֶּאֱמַר: ״שׁוּבוּ בָנִים שׁוֹבָבִים״. אָמַר רַבִּי יִצְחָק אִישׁ כְּפַר עַכּוֹ אָמַר רַבִּי יוֹחָנָן: הֲלָכָה כְּאוֹתוֹ הַזּוֹג.

Rabbi Shimon and Rabbi Yehoshua ben Korḥa say: Both in **this** case **and** in **that** case **they are accepted,**[H] **as it is stated: "Return, you backsliding children;** I will heal your backslidings" (Jeremiah 3:22). **Rabbi Yitzḥak of the village of Akko says** that **Rabbi Yoḥanan says: The *halakha*** is **in accordance with** the opinion of **that pair,** Rabbi Shimon and Rabbi Yehoshua ben Korḥa, i.e., those who return are accepted in both cases.

תָּנוּ רַבָּנַן: בְּרִאשׁוֹנָה הָיוּ אוֹמְרִים, חָבֵר וְנַעֲשָׂה גַּבַּאי – דּוֹחִין אוֹתוֹ מֵחֲבִירְתּוֹ, פִּירַשׁ – אֵין מְקַבְּלִין אוֹתוֹ. חָזְרוּ לוֹמַר: פִּירַשׁ – הֲרֵי הוּא כְּכָל אָדָם.

§ **The Sages taught** in a *baraita*: **Initially,** the Sages **would say** with regard to one who is **a *ḥaver* and became** a tax **collector**[H] that **he is rejected from his** status as **a *ḥaver*.** Even if he later **resigns** from his position as a tax collector, **he is not accepted.** In later generations **they went back to saying** that if **he resigns** from his position as a tax collector **he is like any other person** and may be accepted once again as a *ḥaver*.

רַב הוּנָא בַּר חִיָּיא אִיצְטְרִיכָא לֵיהּ שַׁעְתָּא, הֲוָה עָיֵיל גַּבֵּיהּ רַבָּה וְרַב יוֹסֵף וְאַרְבַּע מְאָה זוּגָא דְּרַבָּנַן. שְׁמַע דְּאָתוֹ, קָטַר לְהוּ אַרְבַּע מְאָה תַּכְתְּקֵי. לְסוֹף שְׁמַעוּ דְּנַעֲשָׂה גַּבַּאי, שְׁלַחוּ לֵיהּ: זִיל לַחֲשִׁיבוּתֵיהּ, זִיל לְקַדְמוּתֵיהּ. שְׁלַח לְהוּ: הָדְרִי בִּי. רַב יוֹסֵף לָא אֲזַל, רַבָּה אֲזַל.

The Gemara relates that one **time** the Sages **needed Rav Huna bar Ḥiyya** for a certain matter. **Rabba and Rav Yosef and four hundred pairs of Sages ascended to his** home. When **he heard that they were coming,** he **tied** for **them four hundred chairs** [***takhtekei***][L] to sit on. **Eventually** the Sages **heard that he had become** a tax **collector. They sent him** the following message: **Go to your** important position as a tax collector, and **go to your former** status, as we no longer need you. **He sent to them** the following message: **I have repented** and am no longer a tax collector. **Rav Yosef did not go** to him, but **Rabba went** to him.

רַב יוֹסֵף אָמַר, תָּנֵינָא: פִּירַשׁ – אֵין מְקַבְּלִין אוֹתוֹ; רַבָּה אָמַר, תָּנֵינָא, חָזְרוּ לוֹמַר: פִּירַשׁ – הֲרֵי הוּא כְּכָל אָדָם.

Rav Yosef said in explanation of why he did not go: **We learn** in a *baraita* that even if such an individual **resigns** from his position as a tax collector **he is not accepted. Rabba said: We learn** in the *baraita* that in later generations **they went back to saying** that if **he resigns** from his position as a tax collector **he is like any other person** and may be accepted once again as a *ḥaver*.

LANGUAGE

Public [*parheseya*] – **פַּרְהֶסְיָא:** From the Greek παρρησία, *parrēsia*, which originally referred to freedom of speech or a free political regime. As used by the Sages, the term means public or visible to all.

Chairs [*takhtekei*] – **תַּכְתְּקֵי:** This word is related to the Middle Persian taxtag, meaning throne.

HALAKHA

Both in this case and in that case they are accepted – **בֵּין כָּךְ וּבֵין כָּךְ מְקַבְּלִין אוֹתָן:** All wicked people or apostates who repent, whether in public or in private, are accepted, as the verse states: "Return, you backsliding children" (Jeremiah 3:22), which is interpreted as follows: Although he is still backsliding, as indicated by the fact that he repented only in private but not in public, his repentance is accepted. This *halakha* is in accordance with the statement of Rabbi Shimon and Rabbi Yehoshua ben Korḥa, as Rabbi Yoḥanan rules in accordance with their opinion (Rambam *Sefer HaMadda*, *Hilkhot Teshuva* 3:14).

One who is a *ḥaver* and became a tax collector – **חָבֵר וְנַעֲשָׂה גַּבַּאי:** A *ḥaver* who becomes a tax collector for the king or takes a similar position loses his status as a *ḥaver*. If he abandons his evil ways, he is like every other person and must accept upon himself the commitments of a *ḥaver* once again. This *halakha* is in accordance with the conclusion of the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:8).

NOTES

And all of them when they retract – **וְכוּלָּן שֶׁחָזְרוּ בָּהֶן:** Some commentaries maintain that this *halakha* is a continuation of the previous *baraita* cited in the Gemara with regard to the wife of a *ḥaver* who married an *am ha'aretz* (Rabbeinu Gershom Meor HaGola). It is explaining how they can once again become *ḥaverim*. Rashi contends, based on the connection between this *baraita* and the *Tosefta* (*Demai* 2:2), that it is referring to an *am ha'aretz*, a Levite, or a priest who wishes to accept upon himself all the stringencies of *ḥaver* status except for one matter, and is not accepted. Now he wishes to retract and accept the status of a *ḥaver* in its entirety. Rabbeinu Tam also bases his interpretation on the connection to the *Tosefta*, but he explains that it is speaking of an *am ha'aretz* who became a *ḥaver* and then returned to being an *am ha'aretz*. He states that the phrase: When they retract, does not mean when they repent, but the opposite, that one retracts what he had previously accepted upon himself and now behaves as an *am ha'aretz*. Rashi on *Avoda Zara* 7a writes that here it is referring to an *am ha'aretz* or a thief who wishes to repent from his wickedness. There is a version of the text there that reads: And all of the wicked (Rabbeinu Ḥananel; Rif). If so, Rabbi Meir apparently holds that one may never accept an *am ha'aretz* as a *ḥaver*.

There are those who say, if they performed their actions in private – **אִיכָּא דְּאָמְרִי אִם עָשׂוּ דִּבְרֵיהֶן בְּמַטְמוֹנִיּוֹת:** According to Rashi the phrase: They performed their actions, is referring to their sins. The issue is not the trustworthiness of these individuals but the seriousness of the sin. Others suggest the following interpretation: If they performed their actions in private and admitted to it voluntarily, they are accepted, as there is no choice but to rely on their statement. But if they performed their actions in public, the court does not require their admission, and therefore they are not accepted again (*Tosefta Kifshuta*).

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HALAKHA

A person may inspect all firstborns except for his own – כָּל הַבְּכוֹרוֹת אָדָם רוֹאֶה חוּץ מִשֶּׁל עַצְמוֹ: A Sage may not inspect his own firstborn to decide whether or not it is permitted to be slaughtered. This ruling is in accordance with the *baraita*. Nowadays, when blemishes are inspected only by three judges, the owner of the animal may join with two others to deem his own animal permitted (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:1; *Shulḥan Arukh*, *Yoreh De'a* 312:2, and see *Pitḥei Teshuva* there).

His animal tithes – מַעֲשְׂרוֹתָיו: An expert may inspect his own animal tithe and deem it permitted if he finds a blemish. The reason is that if he had not wanted to sacrifice the animal he could have inflicted blemishes upon all of his animals before tithing them, and the tithed animal would have already been blemished and unfit before it was designated as tithe. This *halakha* is in accordance with the ruling of the *baraita* (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:9).

And one may ask himself with regard to his ritually pure foods – וְנִשְׁאָל עַל טָהֳרוֹתָיו: A *ḥaver* may rule with regard to his own food as to whether or not it is ritually pure, and he is not suspected of ruling dishonestly, in accordance with the ruling of the *baraita* (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 10:7).

A judge before whom a woman performed refusal, etc. – מֵיאֲנָה וכו': A woman who performs refusal or *ḥalitza* before a court may marry one of the judges (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:16; *Shulḥan Arukh*, *Even HaEzer* 12:2).

NOTES

Performed refusal – מֵיאֲנָה: A girl under the age of twelve can be married off by her father. If her father is no longer alive, by Torah law she cannot marry while still a minor. Nevertheless, the Sages instituted that her mother or brothers may marry her off with her consent. Since her consent is not halakhically valid until she reaches the age of maturity, until the girl develops the physical signs of maturity she may terminate this marriage by performing an act of refusal, i.e., by declaring that she does not desire this marriage. In such cases, no bill of divorce is necessary. When a girl performs the act of refusal, the marriage is nullified retroactively, and it is considered as though she had never been married at all. This act must be performed before a court of three judges (see *Sanhedrin* 2b).

As it is fit for him in his days of impurity – דְּהָא חֲזָא לֵיהּ בִּימֵי טוּמְאָתוֹ: This is referring only to non-sacred food, which a *ḥaver* eats in a state of ritual purity. With regard to impure *teruma*, it is prohibited to partake of it by Torah law, and it may be used only as fuel. Consequently, one may not rule with regard to his own *teruma* (Rashi).

תָּנוּ רַבָּנַן: כָּל הַבְּכוֹרוֹת אָדָם רוֹאֶה, חוּץ מִשֶּׁל עַצְמוֹ. וְרוֹאֶה אֶת קָדָשָׁיו וְאֶת מַעֲשְׂרוֹתָיו, וְנִשְׁאָל עַל טָהֳרוֹתָיו.

§ **The Sages taught** in a *baraita*: **A person may inspect all firstborns** for blemishes **except for his own** firstborns,[H] as he has a vested interest. **And** despite his vested interest in these cases, one may **inspect his own sanctified animals** that he consecrated for the Temple, to determine whether they have blemishes and may be redeemed; **and** he may inspect **his** animal **tithes**[H] to decide whether they are fit for sacrifice in the Temple; **and** one **may ask** himself **with regard to his ritually pure** foods,[H] i.e., he may decide for himself whether or not they have become impure, and he is not suspected of claiming that impure food is actually pure.

אָמַר מָר: כָּל הַבְּכוֹרוֹת אָדָם רוֹאֶה חוּץ מִשֶּׁל עַצְמוֹ. בְּמַאי עָסְקִינַן? אִילֵימָא בְּחַד – מִי מְהֵימַן? אֶלָּא בִּתְלָתָא – וּמִי חֲשִׁידְ? וְהָתְנַן: מֵיאֲנָה אוֹ שָׁחֲלְצָה בְּפָנָיו – יִשָּׂאֶנָּה, מִפְּנֵי שֶׁהוּא בֵּית דִּין!

The Gemara analyzes the *baraita*. **The Master said: A person may inspect all firstborns except for his own** firstborns. **What are we dealing with** here? **If we say** that we are dealing with a case **of one** person examining a blemish, **is he trusted** by himself to deem any firstborn animal permitted for slaughter? The mishna on 36b states that only three people may permit a firstborn animal to be slaughtered. **Rather,** it must be dealing with one **of three** who jointly decide the status of the firstborn animal. **And is he suspect** in such a case? **But didn't we learn** in a mishna (*Yevamot* 25b): A judge before whom a woman **performed refusal**[H N] when she was a minor, by declaring that she did not desire the husband chosen for her by her family, **or before whom she performed *ḥalitza*, may marry her, because** he was only one member of **the court,** and therefore there is no suspicion of conflict of interest?

לְעוֹלָם בְּחַד; וְכִדְאָמַר רַב חִסְדָּא אָמַר רַבִּי יוֹחָנָן: בְּיָחִיד מוּמְחֶה, הָכָא נַמִּי – בְּיָחִיד מוּמְחֶה.

The Gemara answers: **Actually,** we are dealing with a case **of a single** judge, **and** this is **as Rav Ḥisda says** that **Rabbi Yoḥanan says** with regard to a different matter: Vows may be dissolved even **by a single expert,** and a three-member court is not always necessary. **Here too,** we are dealing **with a single expert** who deems the firstborn animal permitted. A single expert may rule with regard to the firstborn animals belonging to others, but not his own animals, due to his vested interest.

וְרוֹאֶה אֶת קָדָשָׁיו – דְּאִי בָּעֵי מִיתְּשִׁיל עֲלַיְיהוּ.

The Gemara analyzes the last section of the *baraita*. **And** despite his vested interest, one may **inspect his own sanctified animals.** Why is it permitted for him to inspect them? The reason is **that if he wants** to avoid giving the animal to the Temple, he can **issue a request** from a halakhic authority to annul his oath. Consequently, he does not truly have a vested interest.

וּמַעֲשְׂרוֹתָיו – דְּאִי בָּעֵי, שָׁדֵי בֵּיהּ מוּמָא בְּכוּלֵּיהּ עֲדָרֵיהּ.

The *baraita* also teaches: **And** he may rule with regard to **his** own animal **tithes** to decide whether they are fit to be sacrificed in the Temple. The Gemara explains that the reason is **that if he wants** to avoid bringing the animals as offerings, he can **inflict a blemish upon his entire herd** before separating the tithe, which would render them all unfit for sacrifice in the Temple.

וְנִשְׁאָל עַל טָהֳרוֹתָיו – דְּהָא חֲזָא לֵיהּ בִּימֵי טוּמְאָתוֹ.

Finally, the *baraita* states: **And** one **may ask** himself **with regard to his ritually pure** foods, i.e., he may decide for himself whether or not they have become impure, and he is not suspected of claiming that impure food is actually pure. The Gemara explains that his vested interested in this case is not so great, **as** the food **is fit for him** to eat **in his days of impurity.**[N]

הדרן עלך עד כמה ישראל חייבין

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Summary of **Perek IV**

A firstborn kosher animal has sanctity from the moment it is born. Nevertheless, since a firstborn animal must be given to a priest in the form of a gift, it should not be handed over to him immediately after it is born, but in a respectful and dignified state. It should be given in such a manner that the priest will not have to exert effort to care for it (Rambam). Therefore, the Sages instituted an ordinance that the owners should take care of the animal until it is appropriate for it to be given to a priest, for thirty days in the case of a sheep or goat and for fifty days in the case of a calf. Even if a priest offers to take the animal earlier, he may not do so, as it would appear as though the priest is helping the owner in exchange for receiving the animal, and although the owner may give the animal to any priest he wishes, he may not receive any kind of payment in return.

A firstborn animal must be slaughtered and eaten by a priest within its first year of life. This applies not only to unblemished animals that are sacrificed in Jerusalem and eaten there, but also to blemished animals, which may be eaten anywhere. From the time the animal becomes blemished the owner or priest has an additional thirty days in which to slaughter it, even if this extends beyond the limit of a year.

A priest may not rule for himself that his firstborn animal is blemished, but must receive a ruling from an expert. It is prohibited to derive any benefit from a firstborn animal that was slaughtered without an expert ruling. The carcass of such an animal must be buried, even if an expert can now see clearly that it was blemished before it was slaughtered. If an Israelite slaughters a firstborn without permission from an expert, he must compensate the priest for the loss he caused him.

In addition to blemishes of firstborn animals, there are other areas of monetary law, ritual purity and impurity, and prohibited and permitted items that require expert judgment. Any non-expert who rules on such cases is considered to have caused damage and is liable to compensate for an ensuing loss. He is obligated to pay restitution only if he handed the money directly from one party to another or performed some other action. If an expert errs in judgment in such a case, he is exempt from payment, as he judged with license.

There are situations in which even the ruling of an expert is void, e.g., if he accepted a wage for his ruling. The Torah prohibits accepting any wage for teaching Torah or performing any mitzva, e.g., judging a case, testifying, and sprinkling water of purification. Nevertheless, one is permitted to receive compensation for the time such action detracts from his usual work.

Some priests were suspected of slaughtering and selling the meat, wool, or hide of a firstborn without a ruling from an expert. The Sages decreed that one may not purchase from such a person any item that could possibly be from a firstborn. Nevertheless, it is permitted to purchase leather goods from him, as it is unlikely he

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would expend the effort to tan the hides if they were from a firstborn, lest the Sages confiscate them from him. Just as the Sages issued a decree against purchasing such items from one who is suspect with regard to firstborn animals, they also prohibited purchasing from those who are suspect in other areas of *halakha*, e.g., with regard to produce of the Sabbatical Year or tithes.

The chapter dealt with those who are suspected of transgressing prohibitions. The conclusion is that one who is suspect with regard to one prohibition is not necessarily suspect with regard to all prohibitions, but only those that are equivalent or less stringent. He is trusted with regard to any prohibition that is more stringent, or that people consider to be more stringent.

This chapter concluded with a lengthy discussion of those who are suspect in matters of *halakha* and how they can once again be considered trustworthy. It dealt primarily with those who were classified as *amei ha'aretz* or *ḥaverim* in the time of the Mishna. How is one accepted as a *ḥaver*? Must a Torah scholar state his acceptance of the stringencies incumbent upon a *ḥaver* in the presence of a court? What if one wishes to be a *ḥaver* only with regard to certain stringencies? The conclusion is that such an individual is not accepted, and the same applies to a priest who wishes to take upon himself some, but not all, of the requirements of priesthood, as well as a potential convert prepared to observe only some of the mitzvot.

In the case of sinners who wish to repent, the Gemara stated that they are accepted, regardless of the severity of the sins they had committed, just as God accepts all penitents.

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Introduction to **Perek V**

But the firstborn of an ox, or the firstborn of a sheep, or the firstborn of a goat, you shall not redeem; they are holy: You shall sprinkle their blood on the altar, and shall make their fat smoke for an offering made by fire, for a pleasing aroma to the Lord.

(Numbers 18:17)

And all the tithe of the herd or the flock, whatsoever passes under the rod, the tenth shall be holy to the Lord. He shall not inquire whether it be good or bad, neither shall he change it; and if he change it at all, then both it and that for which it is changed shall be sacred; it shall not be redeemed.

(Leviticus 27:32–33)

This chapter is a continuation of the previous chapter. In its first half it discusses the *halakhot* of a blemished firstborn animal offering: To what extent does its sanctity remain intact despite the blemish, and how should the priest treat such an animal? In its second part, the chapter addresses the ways in which a firstborn animal becomes permitted for slaughter.

As explained in Chapter Two, although an animal sanctified for sacrifice upon the altar that then developed a blemish may be redeemed, and it is then permitted for slaughter and consumption, nevertheless, its sanctity is not lost entirely. One consequence of this is that one may not treat the meat in the manner of non-sacred meat. Accordingly, a question arises: Is it permitted to sell such meat like non-sacred meat, or is this considered a degradation of consecrated meat? The question of the possibility of sale, and of the manner of the sale, is especially pertinent in the cases of a firstborn animal and the animal tithe, as these do not lose their sacred status through redemption.

An unblemished firstborn animal that was sacrificed in the Temple may be eaten only by priests and their families. In this regard, the Gemara questions the status of the meat of a blemished firstborn animal. Does it retain a sufficient measure of sanctity such that it may be eaten by priests alone, or perhaps, since it may be eaten outside the Temple by both the ritually pure and the impure, it retains no sanctity and may be eaten by anyone, just like non-sacred meat?

By Torah law it is prohibited to cause a blemish intentionally in a consecrated animal, including a firstborn animal. Several questions arise in this context: Does this prohibition extend to a circumstance where a blemish must be caused for therapeutic purposes? What is the *halakha* with regard to causing another blemish in an already blemished firstborn animal?

The Sages penalized anyone who intentionally causes a blemish in a firstborn animal by prohibiting the animal's slaughter on account of that blemish. The Gemara discusses the extent of this penalty. Is it permanently prohibited for this firstborn animal to be slaughtered, or may it be slaughtered in the event that it develops an additional blemish? Is a priest's heir permitted to slaughter a firstborn animal upon whom his legator caused a blemish in a prohibited manner? What is the *halakha* with regard to a blemish caused by a non-priest? Finally, what is the protocol with regard to a blemish unintentionally caused by a priest?

Other queries arise in connection to a priest's reliability with regard to blemishes found on firstborn animals. The Sages established that since priests stand to gain

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if a firstborn animal is declared blemished, they are not deemed credible to testify that a blemish occurred naturally or inadvertently, as they are suspected of having intentionally caused it. One question is whether all priests are considered as suspects with regard to such an act of subterfuge. Does this suspicion extend even to a pious priest? Can a priest testify about the firstborn animal of a fellow priest? Is it permitted for the members of a priest's household to testify about his firstborn animal? Incidentally, the Gemara discusses the *halakha* of the credibility of the owner of a blemished animal tithe, which, like a firstborn offering, may be eaten by its owner in the event that it develops a blemish.

These are the primary topics examined in this chapter, although matters from the previous chapter are addressed toward the end as well. These include the question of who is invested with the authority to permit a firstborn animal for slaughter, as well as the penalty levied by the Sages upon one who slaughters a blemished firstborn animal without having it first deemed permitted by an expert Sage.

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מתני׳ כָּל פְּסוּלֵי הַמּוּקְדָּשִׁין הֲנָאָתָן לַהֶקְדֵּשׁ, נִמְכָּרִין בָּאִיטְלִיז וְנִשְׁחָטִין בָּאִיטְלִיז וְנִשְׁקָלִין בְּלִיטְרָא,

MISHNA With regard to **all disqualified consecrated** animals[N] that were disqualified for sacrifice due to blemishes and were redeemed, all **benefit** accrued from **their** sale belongs **to the Temple** treasury. In order to ensure that the Temple treasury will not suffer a loss, these animals **are sold in the butchers' market** [*ba'itliz*][HL] **and slaughtered in the butchers' market,** where the demand is great and the price is consequently higher. **And** their meat **is weighed** and sold **by the *litra*,**[L] in the manner that non-sacred meat is sold.

חוּץ מִן הַבְּכוֹר וְהַמַּעֲשֵׂר שֶׁהֲנָיָתָן לַבְּעָלִים. פְּסוּלֵי הַמּוּקְדָּשִׁין – הֲנָיָתָן לַהֶקְדֵּשׁ.

This is the *halakha* with regard to all consecrated animals **except for the firstborn** offering **and** an animal **tithe**[H] offering. When these become blemished and their slaughter is permitted, they are sold and slaughtered only in the owner's house and are not weighed; rather, they are sold by estimate. The reason is **that** all **benefit** accrued from **their** sale belongs **to the owner,** i.e., the priest in the case of the firstborn and the owner in the case of the animal tithe offering. It is not permitted to treat disqualified consecrated animals as one treats non-sacred animals merely to guarantee that the owner will receive the optimal price. This is in contrast to **disqualified consecrated** animals, where all **benefit** accrued from **their** sale belongs **to the Temple** treasury, and therefore the animal is sold in the market to ensure that the optimal price is received.

NOTES

All disqualified consecrated animals – כָּל פְּסוּלֵי הַמּוּקְדָּשִׁין: As mentioned in 14a, the sanctity of animals consecrated for sacrifice upon the altar remains intact even if the animal becomes blemished and is therefore disqualified for sacrifice. Furthermore, although such an animal may be redeemed and subsequently sold, it is prohibited to treat it in the manner of non-sacred animals. Although it is permitted to eat the disqualified animal's meat, it is not permitted to shear its wool or use it for labor. The mishna teaches that notwithstanding the prohibition against treating such an animal in the manner of non-sacred animals, if the benefit derived from such an act accrues to the Temple treasury, it is permitted to treat it in that manner.

HALAKHA

All disqualified consecrated animals…are sold in the butchers' market – פְּסוּלֵי הַמּוּקְדָּשִׁין...נִמְכָּרִין בָּאִיטְלִיז: After a disqualified consecrated animal has been redeemed, one is permitted to treat it in the manner of non-sacred animals. Accordingly, one may slaughter and sell it in the butchers' market as well as weigh its meat by the *litra*. This dispensation is granted due to the fact that the profit accrued from its sale is likely to be higher in the market, which will benefit the Temple treasury (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:12).

Except for the firstborn offering and animal tithe – חוּץ מִן הַבְּכוֹר וְהַמַּעֲשֵׂר: The firstborn offering and animal tithe may not be slaughtered or sold in the butchers' market, and their meat may not be weighed by the *litra* (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:12 and *Sefer Korbanot*, *Hilkhot Bekhorot* 1:18; *Shulḥan Arukh*, *Yoreh De'a* 306:6).

LANGUAGE

Butchers' market [*itliz*] – אִיטְלִיז: This word is used in modern Hebrew to mean butcher. Most scholars attribute the derivation to the Greek κατάλυσις, *katalusis*, meaning, among other things, quarters, lodging, a place to rest, guest chamber, and the like. Some claim that it derives from the Greek ἀτελής, *atelēs*, meaning tax free. The term was borrowed to mean a fair, or a place where people engaged in commerce and often enjoyed tax-exempt status.

***Litra* – לִיטְרָא:** From the Greek λίτρα, *litra*, which bears a variety of meanings, including a volume, a weight, and the name of a coin. According to the Jerusalem Talmud, a Greek *litra* weights one hundred dinars.

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וְשׁוֹקְלִין מָנֶה כְּנֶגֶד מָנֶה בַּבְּכוֹר.

And although the meat of the firstborn is not weighed and sold by the *litra*, nevertheless, if one has non-sacred meat weighing one hundred dinars, **one may weigh one portion** of non-sacred meat **against one portion** of the meat **of the firstborn,**[H] because that is unlike the manner in which non-sacred meat is weighed.

HALAKHA

One may weigh one portion against one portion of the firstborn – וְשׁוֹקְלִין מָנֶה כְּנֶגֶד מָנֶה בַּבְּכוֹר: It is permitted to weigh the meat of a firstborn offering against a portion of meat of a non-sacred animal. It is also permitted to weigh the meat of a firstborn offering against a previously weighed vessel (see *Beitza* 28a). According to the Rambam, this *halakha* applies only to an unblemished firstborn offering when the Temple is standing (*Kesef Mishne*). In any case, unlike the meat of a firstborn offering, the meat of an animal tithe offering may not be weighed in this manner, as it has the appearance of a sale, which is prohibited (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 1:12 and *Sefer Korbanot*, *Hilkhot Bekhorot* 1:18, 6:6; *Shulḥan Arukh*, *Yoreh De'a* 306:6).

Perek **V**
Daf **31** Amud **b**

גמ׳ ״כָּל פְּסוּלֵי הַמּוּקְדָּשִׁין הֲנָאָתָן לַהֶקְדֵּשׁ״. אֵימַת? אִילֵימָא לְאַחַר פִּדְיוֹנוֹ, הֲנָאָתָן לַהֶקְדֵּשׁ? הֲנָאָתָן דִּבְעָלִים הוּא!

GEMARA The mishna teaches that with regard to **all disqualified consecrated** animals that were disqualified for sacrifice due to blemishes and were redeemed, all **benefit** accrued from **their** sale belongs **to the Temple** treasury, and the animals may consequently be sold in the manner of non-sacred meat. The Gemara asks: **When** does this apply? **If we say** that it applies to an animal **after its redemption,** i.e., after the owner redeemed it from the Temple treasury, does the **benefit** accrued belong **to the Temple?** Certainly not. Once a consecrated animal is redeemed from the Temple treasury, it is in the possession of its owner, which means that the **benefit** accrued belongs **to the owner.**

אֶלָּא לִפְנֵי פִּדְיוֹנוֹ. נִשְׁחָטִין? הָא בָּעֵי הַעֲמָדָה וְהַעֲרָכָה!

Rather, it applies to an animal **before its redemption,** in which case the money accrued from its sale, which renders it non-sacred, belongs to the Temple treasury. But if so, the mishna's statement that the animals **may be slaughtered** in the butchers' market is problematic. The Gemara explains the difficulty: How can the animal be evaluated after having been slaughtered? Redeeming a sanctified animal **requires standing and valuation,** i.e., it has to be set standing before a priest for him to appraise its monetary value and only then is it redeemed (see Leviticus 27:11–12).

הָנִיחָא לְמַאן דְּאָמַר: קָדְשֵׁי מִזְבֵּחַ לֹא הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, אֶלָּא לְמַאן דְּאָמַר: הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, מַאי אִיכָּא לְמֵימַר?

The Gemara adds: **This works out well according to the one who says** that items **consecrated** to be sacrificed on the **altar** that were then disqualified due to a blemish **were not included in** the requirement of **standing and valuation.** If so, the animal may be slaughtered and subsequently sold. **But according to the one who says** that items consecrated to be sacrificed on the **altar were included in** the requirement of **standing and valuation, what is there to say** in explanation of the mishna?

אֶלָּא לְעוֹלָם לְאַחַר פִּדְיוֹן, וּמַאי ״הֲנָאָתָן לַהֶקְדֵּשׁ״ – אַדְּמֵעִיקָּרָא,

The Gemara answers: **Rather,** the ruling of the mishna **actually** applies to a case where the animals are sold and slaughtered **after their redemption** by the owner. **And what** is the meaning of the mishna's statement that all **benefit** accrued from **their** sale belongs **to the Temple** treasury? This is not referring to the profit from the sale in the butchers' market, as was previously assumed. Instead, it is referring **to** their **initial** redemption from the Temple treasury.

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דְּכֵיוָן דְּשָׁרֵי לְהוּ מָר נִמְכָּרִין בָּאִיטְלִיז וְנִשְׁחָטִין בָּאִיטְלִיז וְנִשְׁקָלִין בְּלִיטְרָא, טָפֵי וּפָרִיק מֵעִיקָּרָא.

The Gemara explains: **Since the Sage** in the mishna **deems** it **permitted** for the redeemed animals to be subsequently **sold in the butchers' market and slaughtered in the butchers' market, and weighed** and sold **by the *litra*,** there is a higher probability that the owner will **redeem** the animal for **more** money **initially.** The owner's later ability to sell the redeemed animal for the highest market value is in effect a benefit that eventually accrues to the Temple treasury, as he will be willing to spend more money to redeem the animal.

״חוּץ מִן הַבְּכוֹר וּמִן הַמַּעֲשֵׂר שֶׁהֲנֵיתָן לַבְּעָלִים״. בְּשִׁלְמָא בְּכוֹר – בְּאִיטְלִיז הוּא דְּלָא מִיזְּדַבַּן, הָא בְּבֵיתֵיהּ מִיזְּדַבַּן. אֶלָּא מַעֲשֵׂר, בְּבֵיתֵיהּ מִי מִיזְּדַבַּן?

§ The mishna teaches that the meat of blemished, consecrated animals may be sold in the same manner as non-sacred meat, **except for the firstborn** animal **and** animal **tithe** offering, **as** all **benefit** accrued from **their** sale belongs **to the owner.** Accordingly, even if it is blemished, the meat may be sold only in the owner's house. The Gemara asks: **Granted,** in the case of **a firstborn** offering, **it is in the butchers' market that it may not be sold,** whereas **it may be sold in its** owner's **house. But** with regard to the animal **tithe** offering, **may it be sold in its** owner's **house?**

וְהָתַנְיָא, בִּבְכוֹר נֶאֱמַר: ״לֹא תִפְדֶּה״ – וְנִמְכָּר חַי, בְּמַעֲשֵׂר נֶאֱמַר: ״לֹא יִגָּאֵל״ – וְאֵינוֹ נִמְכָּר לֹא חַי וְלֹא שָׁחוּט, לֹא תָּם וְלֹא בַּעַל מוּם!

But isn't it taught in a *baraita*: **With regard to a firstborn** animal it **is stated: "You shall not redeem"** (Numbers 18:17), indicating that its sanctity can never be removed from it and transferred to non-sacred objects. **But it can be sold** after it comes into the possession of the priest, while it is **alive.**[H] By contrast, **with regard to** the animal **tithe** offering, it **is stated: "It shall not be redeemed"** (Leviticus 27:33), which teaches that its sanctity can never be removed from it, **and it cannot be sold** either, as the Gemara will explain (32a–b), **not** when **alive and not** when **slaughtered, not** when **unblemished and not** when **blemished.**[H] This *baraita* clearly states that the animal tithe offering may not be sold no matter what its status, which seems to contradict the mishna.

הָא מִילְּתָא אִיקְּשְׁיָא לֵיהּ לְרַב שֵׁשֶׁת בְּאוֹרְתָּא, וְשָׁנְיֵיהּ בְּקַדְמוּתָא מִבָּרַיְיתָא: בְּמַעֲשֵׂר בְּהֵמָה שֶׁל יְתוֹמִים עָסְקִינַן, וּמִשּׁוּם דֶּשְׂבַת אֲבֵידָה נָגְעוּ בָּהּ.

The Gemara notes: **At night, Rav Sheshet**[P] **found this matter difficult, and he resolved it in the morning from a *baraita*.**[B] He explains that in the mishna **we are dealing with** a case of **an animal tithe** offering **belonging to** young **orphans**[H] that was blemished and slaughtered. Since the orphans are unable to consume the entire animal and would therefore suffer a monetary loss if the meat were to spoil, the Sages permitted its sale, **and** it is **due to** the principle of **returning a lost item**[N] that **they touched upon it,** i.e., allowed for this.

PERSONALITIES

Rav Sheshet – רַב שֵׁשֶׁת: A prominent third-generation Babylonian *amora*, Rav Sheshet was the foremost student of Rav Huna, although he also served and studied under the rest of the Sages of that generation. Rav Sheshet was famous for his unsurpassed expertise in *baraitot*. Many of the Sages of the generation came to learn from him, as they knew that his statements were always based on early sources.

In his later years Rav Sheshet became blind. He remained involved in all aspects of life and was a frequent visitor to the house of the Exilarch. He was characterized as extremely forceful and hard as steel, and he did not defer even to eminent world leaders.

BACKGROUND

***Baraita* – בָּרַיְיתָא:** Literally, this means external or outside. It is used in reference to tannaitic material that was not included in the final redaction of the Mishna. When Rabbi Yehuda HaNasi redacted the collection of tannaitic material, he excluded much of it from the Mishna. This material, some of which comprises other collections, is known as *baraitot*.

NOTES

Due to the principle of returning a lost item – מִשּׁוּם הֲשָׁבַת אֲבֵידָה: The commentaries question the validity of overriding a prohibition by Torah law due to the principle of returning a lost object (Meiri on *Bava Kamma* 12b). The Meiri explains that the prohibition by Torah law applies exclusively to the sale of an unblemished animal-tithe offering. Here, the Gemara is referring to a blemished animal-tithe offering, whose sale is prohibited by rabbinic law, and therefore the Sages permitted the sale to protect the orphans' property.

HALAKHA

A firstborn offering may be sold while alive – בְּכוֹר נִמְכָּר חַי: In the absence of the Temple, a priest may sell a live, unblemished firstborn offering, as it is considered the priest's property. If the animal is blemished, the priest may sell it whether it is alive or has been slaughtered, and the purchaser must treat it with the sanctity of a firstborn offering. When the Temple is standing, an unblemished firstborn offering may not be sold; see *Temura* 7b–8b (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:3, 17–18; *Shulḥan Arukh*, *Yoreh De'a* 306:6, 307:3).

It cannot be sold, not alive and not slaughtered, not unblemished and not blemished – אֵינוֹ נִמְכָּר לֹא חַי וְלֹא שָׁחוּט לֹא תָּם וְלֹא בַּעַל מוּם: By Torah law, it is prohibited to sell an animal tithe offering only if is unblemished. The source for this prohibition is the verse: "It may not be redeemed" (Leviticus 27:33). The Sages have a tradition that this also includes the prohibition against selling. The Rambam maintains that if one did in fact sell an animal tithe offering, it is considered as though he performed no action at all, and neither he nor the purchaser are liable to receive lashes. By rabbinic law, it is prohibited even to sell a blemished animal-tithe offering, including one that has already been slaughtered, lest one sell it while is alive (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:5).

An animal tithe belonging to orphans – בְּמַעֲשֵׂר בְּהֵמָה שֶׁל יְתוֹמִים: The Sages permit the meat of a blemished animal-tithe offering belonging to orphans to be sold in the ordinary manner. This lenient ruling is based on the principle of returning a lost item (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:7).

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LANGUAGE

Attendant [*sarasei*] – סָרְסֵיהּ: According to Rashi, *sarasei* means an attendant or a courtier; see Ibn Ezra on Daniel 1:3. Others state that this word can also mean an interpreter (Rabbeinu Gershom Meor HaGola). Rabbeinu Yitzḥak of Dampierre suggests this means a brewer, based on *Kiddushin* 52b (*Tosafot Ḥitzoniyyot*).

Pile [*komer*] – כּוֹמֶר: This refers to a pile of grapes left for the first stage of fermentation, a kind of cooking. It is related to the Hebrew root *kaf*, *mem*, *reish*, meaning heating, as in the verse: "His heart was aroused [*nikhmeru*]" (Genesis 43:30).

HALAKHA

One may include it in the animal's hide, its fat, its sinews, and its horns – מַבְלִיעוֹ בְּעוֹרוֹ בְּחֶלְבּוֹ בְּגִידוֹ וּבְקַרְנָיו: In a case where a blemished animal-tithe offering was slaughtered, it is permitted to sell its hide, fat, sinews, and horns, but not its meat. It is permitted to include the value of the meat in the cost of these parts. This *halakha* is in accordance with the opinion of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:8).

רַבִּי אִידִי סָרְסֵיהּ דְּרַב שֵׁשֶׁת הֲוָה שָׁמְעָה מִינֵּיהּ, אֲזַל אֲמָרָהּ בֵּי מִדְרְשָׁא וְלָא אֲמָרָהּ מִשְׁמֵיהּ. שְׁמַע רַב שֵׁשֶׁת, אֵיקְפַּד, אֲמַר: מַאן דַּעֲקִיץ – לִיעַקְצֵיהּ עַקְרָבָא! וְרַב שֵׁשֶׁת מַאי נָפְקָא לֵיהּ מִינָּהּ? דְּאָמַר רַב יְהוּדָה אָמַר רַב: מַאי דִּכְתִיב ״אָגוּרָה בְאָהֳלְךָ עוֹלָמִים״? וְכִי אֶיפְשָׁר לְאָדָם לָגוּר בִּשְׁנֵי עוֹלָמִים?

The Gemara relates: **Rav Idi, the attendant** [*saraseih*]^{L} **of Rav Sheshet, heard** this explanation **from** Rav Sheshet. Rav Idi **went and stated** the matter **in the study hall, but did not say it in his** master's **name. Rav Sheshet heard** what he had done and **was annoyed.**^{N} Rav Sheshet **said: The one who stung me, let him be stung by a scorpion.**^{N} The Gemara asks: **And** as for **Rav Sheshet, what difference does it make to him** whether or not his interpretation was cited in his name? The Gemara answers that this is **as Rav Yehuda says** that **Rav says: What** is the meaning of that **which is written: "I will dwell in Your tent forever** [*olamim*]**"** (Psalms 61:5)? Rav asked: **But is it possible for a person to live in two worlds** [*olamim*], this world and the next, simultaneously?

אֶלָּא אָמַר דָּוִד: רִבּוֹנוֹ שֶׁל עוֹלָם, יֹאמְרוּ דְּבַר שְׁמוּעָה מִפִּי בָּעוֹלָם הַזֶּה! דְּאָמַר רַבִּי יוֹחָנָן מְשׁוּם רַבִּי שִׁמְעוֹן בֶּן יוֹחַי: כָּל תַּלְמִיד חָכָם שֶׁאוֹמְרִים דְּבַר שְׁמוּעָה מִפִּיו בָּעוֹלָם הַזֶּה – שְׂפָתוֹתָיו דּוֹבְבוֹת בַּקֶּבֶר;

Rather, David, who recited this psalm, **said** to God: **Master of the Universe, let** people **say a matter of *halakha* in my name in this world** after I have passed on to another world. **As Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai:** With regard to **any Torah scholar in whose name a matter of *halakha* is stated in this world, his lips mouth** the words **in the grave,** as though he were speaking.

וְאָמַר רַבִּי יִצְחָק בַּר זְעִירִי: מַאי קְרָאָה – ״וְחִכֵּךְ כְּיֵין הַטּוֹב הוֹלֵךְ לְדוֹדִי לְמֵישָׁרִים דּוֹבֵב שִׂפְתֵי יְשֵׁנִים״ – כְּכוֹמֶר שֶׁל עֲנָבִים, מַה כּוֹמֶר שֶׁל עֲנָבִים, כֵּיוָן דְּאָדָם נוֹגֵעַ בּוֹ – דּוֹבֵב, אַף תַּלְמִידֵי חֲכָמִים, כֵּיוָן שֶׁאָדָם אוֹמֵר דְּבַר שְׁמוּעָה מִפִּיו – דּוֹבְבוֹת שְׂפָתָיו בַּקֶּבֶר.

And Rabbi Yitzḥak ben Ze'eiri says: What is the verse from which this is derived? The verse states: **"And the roof of your mouth is like the best wine that glides down smoothly for my beloved, moving gently the lips of those who are asleep"** (Song of Songs 7:10). Here, words of Torah in the mouths of the Jewish people are likened **to a pile** [*kekhomer*]^{L} **of grapes** left to warm before they are pressed, which causes the wine to exude from them easily: **Just as** with regard to **a pile of grapes, when a person** places his finger on it and **touches it, it moves** and issues a sound as the wine bursts forth, **so too** with regard to **Torah scholars, when a matter of *halakha* is stated in their name, their lips mouth** the words **in the grave.**

מַאי בָּרַיְיתָא? דְּתַנְיָא: מַעֲשֶׂר בְּהֵמָה שֶׁל יְתוֹמִים – מוֹכְרִין אוֹתוֹ, וּמַעֲשֵׂר בְּהֵמָה שֶׁשְּׁחָטוֹ – מַבְלִיעוֹ בְּעוֹרוֹ בְּחֶלְבּוֹ וּבְגִידוֹ וּבְקַרְנָיו.

The Gemara returns to Rav Sheshet's explanation: **What** is the ***baraita*** mentioned by Rav Sheshet, upon which he based his resolution? The Gemara explains: **As it is taught** in a *baraita*: With regard to **an animal tithe** offering **of** young **orphans, one may sell it. And** with regard to **an animal tithe** offering **that one has slaughtered,** whose meat may not be sold, **one may include** the cost of the meat **in** the cost of its negligent parts, thereby inflating the cost of those parts, i.e., the animal's **hide, its fat, its sinews, and its horns,** which are permitted to be sold.^{H}

מַאי קָאָמַר? אֲמַר אַבַּיֵי, הָכִי קָאָמַר: מַעֲשֵׂר בְּהֵמָה שֶׁל יְתוֹמִים מוֹכְרִין אוֹתוֹ בְּהַבְלָעָה.

The Gemara asks: **What is** the *tanna* of the *baraita* **saying?** Initially, the *baraita* stated that one may sell the meat of an animal tithe offering belonging to young orphans, which indicates that this may be done in the normal fashion. The *baraita* then proceeds to state that the sale of the meat must be performed in the indirect manner of inclusion. **Abaye said:** The *baraita* is actually referring to only one case, and **this** is what it **is saying:** With regard to the meat of **an animal tithe** offering **of** young **orphans, it may be sold,** but only **by** means of **inclusion.**

NOTES

Rav Sheshet heard and was annoyed – שְׁמַע רַב שֵׁשֶׁת אֵיקְפַּד: Rav Sheshet's annoyance can possibly be attributed to the fact that as he had no sons he was particularly concerned that his memory should be preserved through his Torah lessons.

Let him be stung by a scorpion – לִיעַקְצֵיהּ עַקְרָבָא: Some interpret this statement literally, that Rav Sheshet cursed Rav Idi that he should be stung by a scorpion. Rashi explains that Rav Sheshet ostracized him. This is similar to the statement in the mishna in tractate *Avot* (2:10), that the sting of the Sages, i.e., their punishments, is like the sting of a scorpion; see also *Bava Batra* 151a.

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מִכְּלָל דְּגָדוֹל בְּהַבְלָעָה לָא? מַאי שְׁנָא מֵהָא דְּתַנְיָא: הַלּוֹקֵחַ לוּלָב מֵחֲבֵירוֹ בַּשְּׁבִיעִית – נוֹתֵן לוֹ אֶתְרוֹג בְּמַתָּנָה, לְפִי שֶׁאֵינוֹ רַשַּׁאי לְלוֹקְחוֹ בַּשְּׁבִיעִית;

The Gemara states: One can conclude **by inference** from this *baraita* **that** in the case of an animal tithe offering of **an adult,** i.e., a non-orphan, its meat may **not** be sold even **by** means of **inclusion. What is different** in this case **from that which is taught** in a mishna (*Sukka* 3:11): In the case of **one who purchases a *lulav* from another,** who is an *am ha'aretz*, **during the Sabbatical** Year,[H] the seller **gives him an *etrog*** together with the *lulav* **as a gift,**[N] **as it is not permitted for one to purchase** the *etrog* **during the Sabbatical** Year, and one may not give the value of Sabbatical-Year produce to an *am ha'aretz*, lest he engage in commerce with it, which is prohibited.

וְהָוֵינַן בָּהּ: לֹא רָצָה לִיתֵּן לוֹ בְּמַתָּנָה מַאי? וְאָמַר רַב הוּנָא: מַבְלִיעַ לוֹ דְּמֵי אֶתְרוֹג בַּלּוּלָב!

The Gemara continues: **And we discussed this** mishna and asked: If the seller **did not want to give him** the *etrog* **as a gift, what** is the *halakha*? How can the buyer receive the *etrog*? **And Rav Huna said:** The seller **includes the value of the *etrog* in** the cost of **the *lulav*.** The buyer should purchase the *lulav* at an elevated price to cover the cost of the *etrog* as well. If inclusion is allowed in the case of the *etrog*, why would it not be permitted in the case of the meat of an animal tithe offering belonging to an adult?

הָתָם לָא מוּכְחָא מִילְּתָא, הָכָא – מוּכְחָא מִילְּתָא.

The Gemara answers: **There,** in the case of the *etrog*, **the matter is not evident,** whereas **here,** with regard to the meat of an animal tithe offering, **the matter is evident.** The inclusion of the cost of the *etrog* in the elevated cost of the *lulav* is not evident, as it is reasonable that the price of a *lulav* might fluctuate. By contrast, inflating the cost of the negligible parts of the animal tithe offering to include the cost of its expensive meat is obviously an artifice and is therefore not permitted.

אֲמַר רָבָא: אִם כֵּן, ״מַעְשֵׂר בְּהֵמָה״ תְּרֵי זִמְנֵי לָמָּה לִי? אֶלָּא אֲמַר רָבָא, הָכִי קָאָמַר: מַעְשַׂר בְּהֵמָה שֶׁל יְתוֹמִים – מוֹכְרִין אוֹתוֹ כְּדַרְכּוֹ, וּמַעְשַׂר בְּהֵמָה דְּגָדוֹל שֶׁשְּׁחָטוֹ – מַבְלִיעוֹ בְּעוֹרוֹ בְּחֶלְבּוֹ בְּגִידוֹ וּבְקַרְנָיו.

Rava said to Abaye in response: **If so,** that the *baraita* is referring to only one case, **why do I** need it to use the expression: **Animal tithe** offering, **twice? Rather, Rava said** that the *baraita* is discussing two distinct cases, and **this** is what the *tanna* **is saying:** With regard to the meat of **an animal tithe** offering **of** young **orphans, one may sell it in its** usual **manner, but** in the case of **an animal tithe** offering **belonging to an adult that was slaughtered,** one may sell its meat only by means of **including its** cost **in** the elevated price of the animal's **hide, its fat, its sinews, and its horns.**

אֲמַר רָבָא: מְנָא אָמִינָא לָהּ? דִּכְתִיב: ״וְהָיָה הוּא וּתְמוּרָתוֹ יִהְיֶה קֹדֶשׁ לֹא יִגָּאֵל״,

Rava said: From where do I say that the meat of an animal tithe offering belonging to an adult may be sold by inclusion? **As it is written** with regard to the animal tithe offering: **"Then both it and that for which it is substituted shall be holy; it shall not be redeemed"** (Leviticus 27:33). This indicates that a non-sacred animal designated as a substitute for an animal tithe offering assumes sacred status, while the animal tithe offering retains its sacred status as well. As stated earlier, the phrase "it shall not be redeemed" is interpreted as referring to the prohibition against selling the animal tithe offering. The verse's juxtaposition of substitution and the prohibition against selling an animal tithe offering indicates a similarity between the two.

אֵימָתַי עוֹשֶׂה תְּמוּרָה – מֵחַיִּים, אֵימָתַי אֵינוֹ נִגְאָל – מֵחַיִּים; הָא לְאַחַר שְׁחִיטָה – נִגְאָל. וְרַבָּנַן (הַהוּא) דְּגָזְרוּ לְאַחַר שְׁחִיטָה אַטּוּ לִפְנֵי שְׁחִיטָה;

Rava explains: **When** does an animal tithe offering **render** consecrated as **a substitute** a non-sacred animal for which it is exchanged? Only **when** the animal tithe offering is **alive,** as substitution is invalid after its death. Similarly, **when may** the animal tithe offering **not be redeemed,** i.e., sold? **When** it is **alive.** It may be inferred from here that **it may be redeemed,** i.e., sold, **after** its **slaughter.** This teaches that by Torah law, the meat of an animal tithe offering may be sold once the animal has been slaughtered. **The Sages decreed** that an animal tithe offering may not be sold **after** its **slaughter, due to** the concern that one might sell it **before** its **slaughter.**

דָּבָר הַנִּישׁוֹם מֵחַיִּים – גְּזוּר רַבָּנַן לְאַחַר שְׁחִיטָה אַטּוּ לִפְנֵי שְׁחִיטָה,

Rava continues: It was only with regard to **an item that is appraised when** the animal is **alive,** i.e., its meat, which gives the animal its primary value, that **the Sages decreed** that it may not be sold even **after** its **slaughter, due to** the concern that one might sell the animal **before** its **slaughter.**

HALAKHA

One who purchases a *lulav* from another during the Sabbatical Year – הַלּוֹקֵחַ לוּלָב מֵחֲבֵירוֹ בַּשְּׁבִיעִית: One who purchases a *lulav* set from an *am ha'aretz* during the Sabbatical Year receives the *etrog* as a gift. If the seller does not wish to give it for free, he may include the value of the *etrog* in the elevated cost of the *lulav* (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 8:11).

NOTES

Gives him an *etrog* as a gift – נוֹתֵן לוֹ אֶתְרוֹג בְּמַתָּנָה: Some commentaries state that it is permitted to purchase a *lulav* because it does not have the sanctity of Sabbatical-Year produce, as it is not a fruit (Rabbeinu Gershom Meor HaGola). This claim is problematic, as it is evident from *Sukka* 39a that a *lulav* does in fact have the sanctity of Sabbatical-Year produce. Rather, it is permitted to purchase a *lulav* during the Sabbatical Year since the produce of that year's festival of *Sukkot* is from the yield of the sixth year, when the *lulav* sprouted. One may not purchase an *etrog* during the Sabbatical Year, as its status is determined by when it is picked, not by when it begins to sprout (see Rashi).

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HALAKHA

What is the *halakha* with regard to including the value in the animal's bones – מַהוּ לְהַבְלִיעוֹ בָּעֲצָמוֹת: In a case where a blemished animal tithe was slaughtered, it is prohibited to sell its meat, but if its bones were valuable and one included the value of its meat in the cost of its bones, the sale is valid (Rambam *Sefer HaKorbanot*, *Hilkhot Bekhorot* 6:8).

NOTES

And they do not disagree…a large domesticated animal, etc. – וְלָא פְּלִיגִי...הָא בְּגַסָּה וכו׳: Rashi indicates that the determining factor as to whether inclusion may be performed with bones is whether or not they are used for some purpose, in which case they are generally sold as entities independent of the rest of the animal from which they came. Others maintain that inclusion is permitted only if the bones are valuable, irrespective of their function (Rambam).

דָּבָר שֶׁאֵינוֹ נִישׁוֹם מֵחַיִּים – לָא גָּזְרוּ רַבָּנַן, וּבִיתֵּמֵי אוֹקְמוּהָ רַבָּנַן אַדְּאוֹרַיְיתָא.

But with regard to **an item that is not appraised** when an animal is sold **when alive,** e.g., the hide and sinews, as these are not primary contributing factors to the animal's value, **the Sages did not decree** that one may not sell such items after the animal's slaughter. Consequently, the meat of an animal tithe offering may be sold by means of inclusion in the animal's hide, fat, sinews, and horns. **And with regard to** a case of young **orphans, the Sages established** the *halakha* **as** if **by Torah law,** and therefore the meat may be sold in its usual manner.

וְאַף רַב שְׁמוּאֵל בַּר רַב יִצְחָק סָבַר לָהּ לְהָא דְּרָבָא. דְּאָמַר רַב שְׁמוּאֵל בַּר רַב יִצְחָק: מִנַּיִן לְמַעֲשַׂר בְּהֵמָה שֶׁל יְתוֹמִים שֶׁמּוֹכְרִים אוֹתוֹ כְּדַרְכּוֹ?

The Gemara notes: **And even Rav Shmuel bar Rav Yitzḥak holds** in accordance with **that** opinion **of Rava,** that by Torah law, the meat of a blemished animal-tithe offering may be sold in the normal manner. **As Rav Shmuel bar Rav Yitzḥak says: From where** is it derived **that one may sell** the meat of a blemished **animal-tithe** offering **of** young **orphans in its** usual **manner,** without having to resort to the method of inclusion?

שֶׁנֶּאֱמַר: ״רַק בְּכָל אַוַּת נַפְשְׁךָ תִּזְבַּח וְאָכַלְתָּ בָּשָׂר״, אֵיזֶהוּ דָּבָר שֶׁאֵין בּוֹ בְּרָכָה מֵחַיִּים אֶלָּא לְאַחַר שְׁחִיטָה – הֱוֵי אוֹמֵר זֶה מַעֲשַׂר בְּהֵמָה.

It is derived from a verse, **as it is stated** in a verse discussing consecrated animals that became blemished: "**Notwithstanding, after all the desire of your soul, you may slaughter and eat flesh,** according to the blessing of the Lord your God" (Deuteronomy 12:15). Now **which is the item that has no blessing when** it is **alive,** i.e., it is prohibited to derive benefit from it, **but** it does have a blessing **after** its **slaughter,** as indicated by the verse "You may slaughter… according to the blessing of the Lord your God"? **You must say** that **this is** the meat of the **animal tithe** offering.

אִיבַּעֲיָא לְהוּ: מַהוּ לְהַבְלִיעוֹ בָּעֲצָמוֹת? רַבִּי חִיָּיא וְרַבִּי שִׁמְעוֹן בְּרַבִּי, חַד אָמַר: מַבְלִיעוֹ, וְחַד אָמַר: אֵין מַבְלִיעוֹ.

§ The *baraita* cited earlier teaches that the Sages permitted the inclusion of the value of a blemished animal-tithe offering's meat in the cost of its hide, fat, sinews, and horns. In this regard, **a dilemma was raised before** the Sages: **What is** the *halakha* **with regard to including** the value of the meat **in** the cost of **the** animal's **bones?**[H] **Rabbi Ḥiyya and Rabbi Shimon, son of Rabbi** Yehuda HaNasi, disputed this matter. **One says** that one may **include** the value in the cost of the bones, **and one says** one may **not include** it.

וְלָא פְּלִיגִי, הָא – בְּדַקָּה, הָא – בְּגַסָּה.

The Gemara notes: **And they do not disagree. This** one, who maintains that one may not include the value in the cost of the bones, is referring **to a small, domesticated animal,** whose bones are incapable of being fashioned into utensils and are therefore never sold. **That** one, who holds that one may include the value in the cost of the bones, is referring **to a large, domesticated animal,**[N] whose bones can be used and are therefore sold.

וְאִיבָּעֵית אֵימָא: אִידִי וְאִידִי בְּגַסָּה, וְלָא פְּלִיגִי, מָר כְּדִי אַתְרֵיהּ, וּמָר כְּדִי אַתְרֵיהּ.

And if you wish, say instead that both **this** one **and that** one are referring even **to a large, domesticated animal, and** still they **do not disagree.** This **Sage** rules **in accordance with** the custom of **his locale, and** that **Sage** rules **in accordance with** the custom of **his locale.** In other words, in certain places the custom is to use the bones and sell them, while elsewhere they do not.

גּוּפָא: בִּבְכוֹר הוּא אוֹמֵר: ״לֹא יִפָּדֶה״, וְנִמְכָּר; בְּמַעֲשֵׂר נֶאֱמַר: ״לֹא יִגָּאֵל״, וְאֵינוֹ נִמְכָּר לֹא חַי וְלֹא שָׁחוּט, וְלֹא תָּם וְלֹא בַּעַל מוּם. מִנָּא הָנֵי מִילֵּי?

§ The Gemara returns to **the** matter **itself,** stated in the *baraita*: **With regard to a firstborn** male animal offering the verse **states: "You shall not redeem"** (Numbers 18:17), **but it may be sold** while alive, by the priest to whom it belongs. By contrast, **with regard to** the animal **tithe** offering, **it is stated: "It shall not be redeemed"** (Leviticus 27:33), indicating that its sanctity can never be removed from it, **and it cannot be sold, not** when **alive and not** when **slaughtered, not** when **unblemished and not** when **blemished.** The Gemara asks: **From where is this matter** derived, that the phrase "it shall not be redeemed" is referring to the prohibition against selling the animal tithe offering?

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אָמַר רַב חִינָּנָא אָמַר רַב, וְכֵן אָמַר רַב דִּימִי אָמַר רַבִּי יוֹחָנָן: נֶאֱמַר ״לֹא יִגָּאֵל״ בְּמַעֲשֵׂר, וְנֶאֱמַר ״וְלֹא יִגָּאֵל״ בַּחֲרָמִים, מַה לְּהַלָּן – מְכִירָה עִמּוֹ, אַף כָּאן – מְכִירָה עִמּוֹ.

Rav Ḥinnana says that **Rav says, and similarly, Rav Dimi says** that **Rabbi Yoḥanan says: It is stated: "It shall not be redeemed," with regard to** the animal **tithe** offering, **and it is stated: "And it shall not be redeemed," with regard to dedications** [*baḥaramim*],[N] i.e., property that one consecrated by means of the expression: *Ḥerem*. With regard to dedications, the verse states: "Notwithstanding, any dedicated item … may neither be sold nor redeemed" (Leviticus 27:28). This is a verbal analogy:[B] **Just as there,** with regard to dedications, the prohibition against **selling is** mentioned together **with** the prohibition against redeeming, **so too here,** with regard to the animal tithe offering, the prohibition against **selling is** mentioned together **with** the prohibition against redeeming.

אָמַר לֵיהּ רַב נַחְמָן בַּר יִצְחָק לְרַב הוּנָא בְּרֵיהּ דְּרַב יְהוֹשֻׁעַ: מָפְנֵי, דְּאִי לָא מָפְנֵי – אֵיבָּא לְמִפְרַךְ: מַה לַּחֲרָמִים, שֶׁכֵּן חָלִים עַל הַכֹּל!

Rav Naḥman bar Yitzḥak said to Rav Huna, son of Rav Yehoshua: It must be that at least one of the phrases "It shall not be redeemed" is **free,** i.e., at least one of these terms is superfluous in its context, which means that it is included for the specific purpose of the verbal analogy. In such a case the verbal analogy cannot be refuted by logic, whereas if neither phrase is free one can refute the analogy if there is a significant difference between the two cases. **As, if** these terms are **not free,** the verbal analogy **can be refuted: What** is notable **about dedications,** in contrast to the animal tithe offering? They are notable in **that** they **apply to all** items one wishes to dedicate, whereas an animal tithe offering applies only to kosher animals.

לָאֵיי אַפְנוּיֵי מָפְנֵי; לֹא יֹאמַר ״וְלֹא יִגָּאֵל״ בַּחֲרָמִים, וְיִגְמֹר מִמַּעֲשֵׂר, מַה מַּעֲשֵׂר קָדוֹשׁ וְאֵינוֹ נִגְאָל – אַף חֲרָמִים קְדוֹשִׁים וְאֵינָם נִגְאָלִין, ״וְלֹא יִגָּאֵל״ דִּכְתַב רַחֲמָנָא לָמָּה לִי? לְאַפְנוּיֵי.

The Gemara notes: This is **not so** [*la'ai*],[L] **as** at least one of the phrases: "It shall not be redeemed," is certainly **free.** How so? **Let** the verse **not state: "It shall not be redeemed," with regard to dedications, and** instead one could **derive** the prohibition **from** an animal **tithe** offering: **Just as** an animal **tithe** offering **is sacred and may not be redeemed, so too, dedications are** also **sacred and may not be redeemed. Why** then **do I** need the phrase **"It shall not be redeemed" that the Merciful One writes,** in the case of dedications? It is evidently **to** be considered **free** to enable the verbal analogy.

אִיבָּא לְמִיפְרַךְ: מַה לְּמַעֲשֵׂר – שֶׁכֵּן קָדוֹשׁ לְפָנָיו וּלְאַחֲרָיו!

The Gemara rejects this suggestion. It is still possible that the phrase "It shall not be redeemed," written with regard to dedications, is not free, as the suggested derivation stated above **can be refuted: What is** notable **about** the animal **tithe** offering? It is notable **in that** there is **sanctity before it and after it.** If, instead of proclaiming as the tithe the tenth animal that one counted, one inadvertently proclaimed either the ninth animal or the eleventh animal as the tithe, the mistakenly proclaimed animal assumes the sacred status of the animal tithe offering. By contrast, one cannot inadvertently dedicate property to the Temple. Since the case of the animal tithe offering includes a stringency not shared by dedications, the phrase "It shall not be redeemed" is required to teach that dedications may not be redeemed, and is therefore not free for the verbal analogy.

NOTES

Dedications [*ḥaramim*] – **חֲרָמִים:** If one dedicates movable property or land to God by means of the term *ḥerem*, without explicitly stating that he is consecrating it for the purpose of Temple maintenance, it becomes the property of the priests, in accordance with the verse: "Every dedicated item in Israel shall be for You" (Numbers 18:14). Consequently, it is divided among the priests of the priestly watch officiating at the time of the dedication. Once they have been dedicated, one may not sell the items, even if he gives the proceeds to a priest, nor may one redeem them and give the money to a priest. In *Torat Kohanim* the verse is interpreted as follows: "May not be sold," to another individual; "and may not be redeemed," for the owner (Gra; see Rambam). In other words, the verse is teaching that neither an outsider nor the owner may redeem dedicated property of that kind (see *Ḥazon Ish*).

LANGUAGE

Not so [*la'ai*] – **לָאֵיי:** The root of this word and its meaning have not been sufficiently clarified. According to Rashi, it means: In truth, or: Indeed. Some maintain that it is a shortened form of the Hebrew expression *lo hi* or the Aramaic *la hai*, both of which mean: Not so. Others claim that it is a compound of two words, the Aramaic *la* and the Greek **υἱέ**, *huie*, meaning son. If so, *la'ai* means: No, my son (*Arukh*).

BACKGROUND

Verbal analogy – **גְּזֵירָה שָׁוָה:** This is a fundamental talmudic principle of biblical exegesis. If the same word or phrase is written in two places in the Torah, and a certain *halakha* is explicitly stated in one of these places, one may infer on the basis of a verbal analogy that the same *halakha* applies in the other case as well. The inferences drawn on the basis of verbal analogy rely on verbal identity rather than conceptual similarity. For example, the Torah states with regard to those convicted of certain types of sorcery: "Shall be put to death; they shall stone them with stones; their blood shall be upon them" (Leviticus 20:27). Since this verse uses the phrase "Their blood shall be upon them" when speaking of death by stoning, the Talmud infers by verbal analogy that in all cases where this expression is used, capital punishment is inflicted by stoning. Generally, inferences are drawn through verbal analogy only if the same word or phrase appears in both of the verses being compared, although a verbal analogy is occasionally drawn even if the words being compared are not identical, provided that their meanings are similar.

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אֶלָּא, לֹא יֹאמַר ״לֹא יִגָּאֵל״ בַּחֲרָמִים, וְיִגְמֹר מִבְּכוֹר, מַה בְּכוֹר קָדוֹשׁ וְאֵינוֹ נִגְאָל – אַף חֲרָמִים קְדוֹשִׁין וְאֵינָן נִגְאָלִין, ״לֹא יִגָּאֵל״ דִּכְתַב רַחֲמָנָא לָמָּה לִי? לְאַפְנוּיֵי.

The Gemara cites an alternative suggestion. **Rather, let** the verse **not state: "It shall not be redeemed," with regard to dedications, and** instead one can **derive** the prohibition **from** the **firstborn** offering: **Just as** the **firstborn** offering **is sacred and may not be redeemed,** as the verse states: "You shall not redeem it" (Numbers 18:17), **so too, dedications are** also **sacred and may not be redeemed. Why do I** need the phrase **"It shall not be redeemed" that the Merciful One writes** in the case of dedications? It is evidently **to** be considered **free** to enable the verbal analogy to the animal tithe.

אִיכָּא לְמֵימַר: מַה לִּבְכוֹר – שֶׁכֵּן קְדוּשָּׁתוֹ מֵרֶחֶם!

The Gemara rejects this suggestion as well: It is possible that the phrase "It shall not be redeemed" is not free, as the above derivation **can be refuted: What** is notable **about** the **firstborn** offering? It is notable **in that its sanctity is from the womb,** whereas dedications require an act of consecration.

אֶלָּא, לֹא יֹאמַר ״לֹא יִגָּאֵל״ בְּמַעֲשֵׂר, וְיִגְמֹר הַעֲבָרָה הַעֲבָרָה מִבְּכוֹר, מַה בְּכוֹר קָדוֹשׁ וְאֵינוֹ נִגְאָל – אַף מַעֲשֵׂר קָדוֹשׁ וְאֵינוֹ נִגְאָל, ״לֹא יִגָּאֵל״ דִּכְתַב רַחֲמָנָא בְּמַעֲשֵׂר לָמָּה לִי? לְאַפְנוּיֵי.

Rather, let the verse **not say: "It shall not be redeemed," with regard to** the animal **tithe** offering, **and** instead one can **derive** the prohibition **from a verbal analogy** from the term of **passing stated there** and the term of **passing** stated in the case of a firstborn. With regard to an animal tithe offering the verse states: "Whatsoever passes under the rod" (Leviticus 27:32), and in the case of the firstborn offering it is stated: "And you shall cause to pass all that opens the womb, to the Lord" (Exodus 13:12). **Just as** the **firstborn** offering **is sacred and may not be redeemed, so too,** an animal **tithe** offering **is** also **sacred and may not be redeemed. Why do I** need the phrase **"It shall not be redeemed" that the Merciful One writes** with regard to animal tithe offerings? It is evidently **to** be considered **free** to enable the verbal analogy to dedications.

וְאַכַּתִּי, בְּמַעֲשֵׂר נַמִּי לָא מְפַנֵּי, דְּאִיכָּא לְמֵימַר כִּדְפָרְכִינַן!

The Gemara asks: **But still,** the phrase "It shall not be redeemed," written **with regard to** the animal **tithe** offering, is itself **not free, as** the analogy between the animal tithe offering and the firstborn offering **can be refuted as we refuted** the analogy between the firstborn offering and dedications, since the firstborn offering is notable in that it is sanctified from the womb.

״וְהַעֲבַרְתָּ״ קְרָא יְתֵירָא הוּא.

The Gemara answers: The term **"And you shall cause to pass,"** written in the context of the firstborn, **is a superfluous verse,** as it could have simply stated: All that opens the womb is to be for the Lord. Consequently, it is free to enable the verbal analogy. In sum, the Gemara is suggesting that due to the term "And you shall cause to pass," there is a verbal analogy between the animal tithe offering and the firstborn offering, from which it is derived that the animal tithe offering may not be redeemed. This means that the phrase "It shall not be redeemed," written with regard to the animal tithe offering, is free to enable the verbal analogy with dedications, from which the prohibition against selling the meat of the animal tithe offering is derived.

בְּכוֹר נַמִּי, נֵילַף גְּאוּלָּה גְּאוּלָּה מֵחֲרָמִים! דְּמַעֲשֵׂר מְפַנֵּי, דִּבְכוֹר לָא מְפַנֵּי.

The Gemara raises a difficulty: With regard to **a firstborn** offering **as well, let us derive** that one may not sell its meat from a verbal analogy between the expression of **redemption** written there and the expression of **redemption** written in the context **of dedications.**[N] This would contradict the ruling of the *baraita* that a firstborn offering can be sold after it enters the possession of the priest. The Gemara answers: The expression of redemption in the context **of** the animal **tithe** offering is **free** to enable the verbal analogy to dedications, but the expression of redemption in the context **of a firstborn** offering **is not free,** as it is required in its own context to teach that the firstborn offering may not be redeemed and as the source for the *halakha* of the animal tithe offering.

וּמַאי חָזֵית דְּ״לֹא תִפְדֶּה״ דִּבְכוֹר לְגוּפֵיהּ, וּדְמַעֲשֵׂר לְאַפְנוּיֵי? וְאֵימָא: דְּמַעֲשֵׂר לְגוּפֵיהּ, דִּבְכוֹר לְאַפְנוּיֵי!

The Gemara asks: **And what did you see that** you said that the phrase "**you shall not redeem**" written in the context **of a firstborn** offering is not free, but is necessary **for itself,** i.e., to teach that it may not be redeemed, **and** yet the expression of redemption written **with regard to** the animal **tithe** offering **is free** to enable the verbal analogy, as the *halakha* of its redemption is derived from the firstborn? **But** one can **say** the reverse, **that** the expression of redemption written in the context **of** the animal **tithe** offering is **for itself,** whereas **that** written **with regard to a firstborn** offering is **free.**

NOTES

Let us derive redemption and redemption written in the context of dedications – נֵילַף גְּאוּלָּה גְּאוּלָּה מֵחֲרָמִים: Although the expression of redemption used in the context of the firstborn offering is *pediya*, whereas the phrase used with regard to dedications is *geula*, nevertheless the Gemara suggests that there is a verbal analogy between the two, as their meanings are synonymous (Rashi).

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דָּנִין גְּאוּלָּה מִגְּאוּלָּה, וְאֵין דָּנִין פְּדִיָּיה מִגְּאוּלָּה.

The Gemara answers: **We derive** the expression of **redemption** [***geula***] written in the context of the animal tithe offering **from** the expression of **redemption** [***geula***] written in the context of dedications, **but we do not derive** the expression of **redemption** [***pediya***] written in the context of dedications **from** the different expression of **redemption** [***geula***] written in the context of the firstborn offering.

מַאי נָפְקָא מִינָּהּ? הָא תָּנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: ״וְשָׁב הַכֹּהֵן״ ״וּבָא הַכֹּהֵן״ – זוֹ הִיא שִׁיבָה זוֹ הִיא בִּיאָה!

The Gemara asks: **What difference** is there whether or not an identical expression is used for a verbal analogy? **Didn't the school of Rabbi Yishmael teach** a verbal analogy with regard to leprosy of houses? The verse states: **"And the priest shall return** [***veshav***] on the seventh day" (Leviticus 14:39), and another verse with regard to the priest's visit seven days later states: **"And the priest shall come** [***uva***] and look" (Leviticus 14:44). **This returning** and **this coming** have the same meaning and one can therefore derive by verbal analogy that the same *halakha* that applies if the leprosy had spread at the conclusion of the first week also applies if it had spread again by the end of the following week. Here too, the different terms of *pediya* and *geula* should not prevent the application of a verbal analogy.

הָנֵי מִילֵּי – הֵיכָא דְּלֵיכָּא דְּדָמֵי לֵיהּ, אֲבָל אִיכָּא דְּדָמֵי לֵיהּ – מִדְּדָמֵי לֵיהּ יָלְפִינַן.

The Gemara answers: **This statement,** that the phrases used for a verbal analogy do not have to be identical, applies only **where there are no terms** that are **equivalent to it. But where there are terms that** are **equivalent to it, we derive** the verbal analogy **from** the terms **that** are **equivalent to it,** rather than from the terms that are not equivalent.

וְלִילַּף בְּכוֹר הַעֲבָרָה הַעֲבָרָה מִמַּעֲשֵׂר, דְּהָא מַעֲשֵׂר נַמִּי גְּמַר גְּאוּלָּה גְּאוּלָּה מֵחֲרָמִים!

The Gemara raises a difficulty: **But let one derive** that it is prohibited to sell the meat of a blemished **firstborn** offering from the verbal analogy between the expression of **passing** and the expression of **passing, from** the case of the animal **tithe** offering. This should be possible, **as** the sale of the meat of a blemished animal-**tithe** offering is **also** prohibited, as **derived** by a verbal analogy between the expression of **redemption** written in its context and the expression of **redemption** written **with regard to dedications,** as explained earlier.

מִיעֵט רַחֲמָנָא גַּבֵּי חֲרָמִים ״הוּא״ – הוּא וְלֹא בְּכוֹר. וְאֵימָא: ״הוּא״ – וְלֹא מַעֲשֵׂר! מַעֲשֵׂר גְּאוּלָּה כְּמוֹתוֹ.

The Gemara answers: **The Merciful One limits** the extension of the prohibition against selling **with regard to dedications** by adding the term "**it**" in the verse: "It is most holy to the Lord" (Leviticus 27:28). The term "**it**" teaches that the prohibition against selling applies only to it, i.e., dedications, **but not** to **a firstborn** offering. The Gemara raises a difficulty: But one can **say** instead that the term "**it**" teaches that the prohibition against selling applies to dedications, **but not** to the animal **tithe** offering. The Gemara answers: The prohibition against selling applies to the animal **tithe** offering, with regard to which the expression of **redemption** is written, **just like** dedications, while the term "it" limits the prohibition to the firstborn offering.

רָבָא אָמַר: ״לֹא יִגָּאֵל״ דַּחֲרָמִים לָא צְרִיךְ; דְּאִיתְּנְהוּ הֵיכָא? אִי בְּיֵי בְּעָלִים – הֶקְדֵּשׁ נִינְהוּ, אִי בְּיֵי כֹּהֵן – חוּלִּין נִינְהוּ.

§ **Rava says** that there is an alternative explanation for the prohibition against selling the animal tithe. The phrase "**It may not be redeemed,**" written **with regard to dedications, is unnecessary**[N] and is therefore free to enable a verbal analogy with the animal tithe offering. Rava explains: **As where are** the items of dedication, designated for the priests, located? **If** they are **in the owner's possession, they are** considered **consecrated**[N] and may not be redeemed. **And if they are in the priest's possession, they are** considered **non-sacred** and the priest may sell them.

דְּתַנְיָא: חֲרָמִים, כָּל זְמַן שֶׁהֵן בְּבֵית בְּעָלִים – הֲרֵי הֵן כְּהֶקְדֵּשׁ לְכָל דִּבְרֵיהֶם, שֶׁנֶּאֱמַר: ״כָּל חֵרֶם קֹדֶשׁ קָדָשִׁים הוּא לַה׳״, נְתָנָן לַכֹּהֵן – הֲרֵי הֵן כְּחוּלִּין לְכָל דִּבְרֵיהֶם, שֶׁנֶּאֱמַר: ״כָּל חֵרֶם בְּיִשְׂרָאֵל לְךָ יִהְיֶה״; ״לֹא

This is **as it is taught** in a *baraita*: **Dedications, as long as they are in the owner's possession,**[H] **are like consecrated** property **in all respects, as it is stated: "Every dedicated item is most holy to the Lord"** (Leviticus 27:28). Once the owner **gave them to the priest, they are like non-sacred property in all respects, as it is stated: "Every dedicated item in Israel shall be for You"** (Numbers 18:14). Rava continues: Accordingly, concerning the phrase "**It may not**

NOTES

It may not be redeemed written with regard to dedications is unnecessary – לֹא יִגָּאֵל דַּחֲרָמִים לָא צְרִיךְ: Rashi, who finds this statement extremely problematic, emends the Gemara's text, replacing: It may not be redeemed, with: It shall not be sold; see Rashi on 32b and *Tosafot* here.

If in the owner's possession they are consecrated – אִי בְּיֵי בְּעָלִים הֶקְדֵּשׁ נִינְהוּ: According to the version of the text accepted by Rashi, that the Gemara is referring to the prohibition against selling, this statement means that the owner may not sell the dedicated items because they actually belong to the Temple, and therefore the verse is apparently superfluous. Following the standard text of the Gemara, according to which it is referring to redemption, some explain that redemption is ineffective for all such dedicated items. This claim is based on the verse: "It is most holy" (Leviticus 27:28), which indicates that dedicated items retain inherent sanctity until they come into the priest's possession (*Tosafot*, citing Rabbeinu Tam). Yet others write that redemption is ineffective in the specific case where the dedicated animals are unblemished and are therefore fit to be sacrificed upon the altar. Such animals may not be redeemed (Rabbeinu Gershom Meor HaGola).

HALAKHA

Dedications as long as they are in the owner's possession – חֲרָמִים כָּל זְמַן שֶׁהֵן בְּבֵית בְּעָלִים: With regard to dedications, as long as they are in the owner's possession, they are like consecrated property in all respects. Once they are given to the priest, they are considered like non-sacred property in all regards (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 6:5).

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יִגָּאֵל״ דִּכְתַב רַחֲמָנָא לָמָּה לִי? אִם אֵינוֹ עִנְיָן לַחֲרָמִים – תְּנֵהוּ עִנְיָן לְמַעֲשֵׂר. אֵימָא: תְּנֵהוּ עִנְיָן לִבְכוֹר! מַעֲשֵׂר – גְּאוּלָּה כְּמוֹתוֹ.

be redeemed" that the Merciful One writes, why do I need it? **If it is not** referring **to** the **matter of dedications,** as can be inferred from the *baraita,* **apply it to the matter of** the animal **tithe** offering, teaching that it may not be sold. The Gemara raises a difficulty: One can **say** that instead of applying it to the animal tithe offering, **apply it to the matter of**[B] **a firstborn** offering. The Gemara rejects this possibility: The prohibition against selling extends to the animal **tithe** offering, concerning which the expression of **redemption** is written, **just like** dedications, which is not so concerning the firstborn offering.

רַב אַשִׁי אָמַר: ״לֹא יִגָּאֵל״ דְּמַעֲשֵׂר – לֹא יִמָּכֵר הוּא. אָמַר רַב אַשִׁי: מְנָא אָמִינָא לָהּ? דִּכְתִיב: ״וְהָיָה הוּא וּתְמוּרָתוֹ יִהְיֶה קֹדֶשׁ לֹא יִגָּאֵל״,

§ **Rav Ashi says** that the prohibition against selling the animal tithe offering is not derived from dedications, but rather from the case of the animal tithe offering itself. The phrase "**It may not be redeemed,**" written **with regard to** the animal **tithe** offering, is to be understood as meaning: **It may not be sold. Rav Ashi** further **says: From where do I say this? As it is written: "Then both it and that for which it is substituted shall be holy; it shall not be redeemed"** (Leviticus 27:33).

אֵימָתַי עוֹשֶׂה תְּמוּרָה – מֵחַיִּים, אֵימָתַי אֵינוֹ נִגְאָל – מֵחַיִּים, הָא לְאַחַר שְׁחִיטָה – נִגְאָל; הָא בְּעֵי הַעֲמָדָה וְהַעֲרָכָה!

Rav Ashi elaborates: **When** does the animal tithe offering **render** a non-sacred animal for which it is exchanged consecrated as **a substitute?** Only **when** the animal tithe offering is **alive.** Similarly, **when may** the animal tithe offering **not be redeemed** by its owner? Only **when** it is **alive,** which indicates that **it may be redeemed after** its **slaughter.** But when redeeming a sanctified animal, **it requires standing and valuation,** i.e., it has to be set standing before a priest for him to evaluate it and only then is it redeemed (see Leviticus 27:11–12). How, then, can the animal tithe offering be redeemed after having been slaughtered?

אֶלָּא שְׁמַע מִינָּהּ: ״לֹא יִגָּאֵל״ – לֹא יִמָּכֵר הוּא.

Rav Ashi continues: **Rather, conclude from** this verse that the phrase "**it may not be redeemed**" is not referring to redemption. Rather, it **is** actually to be understood as: **It may not be sold.** Accordingly, the prohibition against selling the animal tithe offering is in effect only while it is alive, as is the *halakha* with regard to a substitute; but once it is slaughtered, it may be sold.

הָנְיָא לְמַאן דְּאָמַר קָדְשֵׁי מִזְבֵּחַ הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, אֶלָּא לְמַאן דְּאָמַר קָדְשֵׁי מִזְבֵּחַ לֹא הָיוּ בִּכְלַל הַעֲמָדָה וְהַעֲרָכָה, מַאי אִיבָּא לְמֵימַר?

The Gemara raises a difficulty: **This works out well according to the one who says** that animals **consecrated** to be sacrificed on the **altar** that were disqualified due to a blemish **were included in** the requirement of **standing and valuation. But according to the one who says** that animals **consecrated to** be sacrificed on the **altar** that were disqualified due to a blemish **were not included in** the requirement of **standing and valuation, what is there to say?** According to this opinion, the phrase "It may not be redeemed" can be interpreted literally, in contrast to Rav Ashi's claim.

אֲנַן הָכִי קָאָמְרִינַן: מִי אִיבָּא דְּמֵחַיִּים לָא מִיפְּרִיק, וּלְאַחַר שְׁחִיטָה מִיפְּרִיק? אַלְמָה לָא? מֵחַיִּים, דְּאַלִּימָא קְדוּשָּׁתֵיהּ – לָא מִיפְּרִיק; לְאַחַר שְׁחִיטָה, דַּאֲקִיל לֵיהּ קְדוּשָּׁתֵיהּ – מִיפְּרִיק!

The Gemara explains: **This is what we said,** i.e., this is what we meant. The phrase "It may not be redeemed" cannot be understood literally, as **is there** ever an instance **where** an animal **may not be redeemed when alive, and** yet it **may be redeemed after** its **slaughter?** Since such a scenario is impossible, the verse must be referring to the prohibition against selling. The Gemara asks: But **why** can it **not** be said that an animal may be redeemed only after its slaughter? One can claim that **when** the animal is **alive, since its sanctity is strong,** it is logical to say that it **may not be redeemed.** Conversely, **after** its **slaughter, when its sanctity is weak,** it is logical to claim that **it may be redeemed.** If so, the phrase can be understood literally.

BACKGROUND

If it is not…the matter of…apply it to the matter of – אִם אֵינוֹ עִנְיָן לְ…תְּנֵהוּ עִנְיָן לְ…: This form of reasoning is one of the thirty-two hermeneutical principles of Rabbi Eliezer, son of Rabbi Yosei, which according to most commentaries are as authoritative as if their conclusion had been explicitly written in the Torah (see *Yad Malakhi*). This principle is based on the superfluity of verses in the context in which they are written. It should be noted that the verse is never applied to matters totally unrelated to the meaning of the verse.

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וְלָא כָּל דְּבֵן הוּא? וּמָה מֻחָזִים, דְּאַלִּים לְמִיתְפַּס פִּדְיוֹנוֹ – לָא מִיפְרִיק; לְאַחַר שְׁחִיטָה, דְּלָא אַלִּים לְמִיתְפַּס פִּדְיוֹנוֹ – מִיפְרִיק? אֶלָּא שְׁמַע מִינָּהּ: ״לֹא יִגָּאֵל״ – לֹא יִמָּכֵר הוּא.

The Gemara rejects this contention: **But isn't** the opposite claim, that a slaughtered animal tithe offering may not be redeemed, based on **an *a fortiori*** inference: **If, when** the animal tithe offering is **alive and** its sanctity **is strong** enough **to transfer** that sanctity to **its redemption** money, just as it renders a non-sacred animal consecrated as a substitute, nevertheless **it may not be redeemed,** then **after** its **slaughter, when** its sanctity **is not strong** enough **to transfer** that sanctity to **its redemption** money, as at this stage it cannot render a non-sacred animal consecrated as a substitute, should it be able to **be redeemed?** In other words, the fact that substitution can be effected only with a living animal indicates that a strong sanctity is more easily transferable to another item than a weak sanctity. **Rather, conclude from this** that the phrase **"It may not be redeemed" is** actually to be understood as meaning that **it may not be sold.**

וְלִכְתּוֹב רַחֲמָנָא ״לֹא יִמָּכֵר״! אִי כְּתַב רַחֲמָנָא ״לֹא יִמָּכֵר״, הֲוָה אָמִינָא: אִיזְדַּבּוּנֵי הוּא דְּלָא מִזְדַּבַּן – דְּקָא עָבֵיד עוּבְדִּין דְּחוֹל, אֲבָל אִיפְרוּקֵי – מִיפְרִיק, דְּהָא עָיְילִי דָּמָיו לַהֶקְדֵּשׁ; לְהָכִי כְּתַב רַחֲמָנָא ״לֹא יִגָּאֵל״ – דְּלָא אִיזְדַּבּוּנֵי מִיזְדַּבַּן, וְלָא אִיפְרוּקֵי מִיפְרִיק.

The Gemara raises a difficulty: **But** if so, **let the Merciful One write** explicitly: **It may not be sold.** The Gemara answers: **Had the Merciful One written: It may not be sold, I would say** that the animal tithe offering only **may not be sold, as one** who does so **performs an act** of **a non-sacred** item, by treating the consecrated animal in the same manner as a non-sacred animal and transferring its value to non-sacred money. **But** I would say that **it may be redeemed, as** in this manner **its value becomes consecrated. Therefore,** in order to counter this notion, **the Merciful One writes: "It may not be redeemed,"** which teaches both **that** the animal tithe offering **may not be sold and** that it **may not be redeemed.**

מתני׳ בֵּית שַׁמַּאי אוֹמְרִים: לֹא יִסָּעֵד יִשְׂרָאֵל עִם הַכֹּהֵן לִבְכוֹר, וּבֵית הִלֵּל מַתִּירִין, וַאֲפִילּוּ גּוֹי.

MISHNA **Beit Shammai say: An Israelite cannot be counted with the priest to** partake of a blemished **firstborn. And Beit Hillel deem** it **permitted** for him to partake of it, **and** they deem it permitted **even** for **a gentile**[H] to partake of a blemished firstborn.

גמ׳ מַתְנִיתִין מַנִּי? רַבִּי עֲקִיבָא הִיא, דְּתַנְיָא: בְּכוֹר, אֵין נִמְנִין עָלָיו אֶלָּא חֲבוּרָה שֶׁכּוּלָּהּ כֹּהֲנִים, דִּבְרֵי בֵּית שַׁמַּאי. וּבֵית הִלֵּל אוֹמְרִים: אֲפִילּוּ זָרִים. רַבִּי עֲקִיבָא מַתִּיר אֲפִילּוּ גּוֹי.

GEMARA The mishna teaches that Beit Hillel deem it permitted even for a gentile to partake of a blemished firstborn offering. The Gemara says: **Whose** opinion is expressed **in the mishna? It is** the opinion of **Rabbi Akiva, as it is taught** in a *baraita*: In the case of a blemished **firstborn** offering, **only a group** constituted **entirely of priests may be counted to** partake of **it;** this is **the statement of Beit Shammai. And Beit Hillel say:** The group may **even** be constituted of **non-priests. Rabbi Akiva** says that Beit Hillel **deem** it **permitted even** for **a gentile** to partake of a blemished firstborn. Evidently, Beit Hillel's opinion in the mishna is in accordance with Rabbi Akiva's explanation in this *baraita*.

מַאי טַעְמָא דְּבֵית שַׁמַּאי? דִּכְתִיב: ״וּבְשָׂרָם יִהְיֶה לָּךְ״ וגו׳, מָה הָתָם – כֹּהֲנִים אִין, יִשְׂרָאֵל לָא, אַף הָכָא – כֹּהֲנִים אִין, יִשְׂרָאֵל לָא.

The Gemara explains: **What is the reason of Beit Shammai? As it is written** in a verse discussing the firstborn offering, addressed to Aaron and his sons: "But the firstling of an ox, or the firstling of a sheep, or the firstling of a goat you shall not redeem; they are holy … **and their flesh shall be yours,** as the wave breast and as the right thigh, it shall be yours" (Numbers 18:17–18). **Just as there,** with regard to the breast and the thigh, **priests may** partake of it but **an Israelite,** i.e., a non-priest, may **not,** as the verse states: "You shall eat in a pure place; you, and your sons, and your daughters with you" (Leviticus 10:14), **so too here,** with regard to the firstborn offering, only **priests may** partake of it, but **an Israelite** may **not.**

HALAKHA

And Beit Hillel deem it permitted even for a gentile – וּבֵית הִלֵּל מַתִּירִין וַאֲפִילּוּ גּוֹי: It is permitted for a priest to share the meat of a blemished, ritually pure firstborn offering with whomever he chooses, including a gentile. It is also permitted to feed the meat to dogs (Rema, but see *Shakh*). The reason is that the meat is considered non-sacred and the personal property of the priest to whom it was given. This ruling is in accordance with the opinion of Beit Hillel and Rabbi Akiva (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:3; *Shulḥan Arukh*, *Yoreh De'a* 306:5).

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HALAKHA

A ritually impure priest may not eat of offerings of lesser sanctity – טָמֵא אֵינוֹ אוֹכֵל בְּקָדָשִׁים קַלִּים: One who is ritually impure may not partake of offerings (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 18:14).

Its general prohibition was permitted with regard to the communal service – הוּתַּר מִכְּלָלוֹ בַּעֲבוֹדַת צִבּוּר: Communal offerings that are brought at designated times (see Mahari Kurkus) override ritual impurity imparted by a corpse. Accordingly, if the designated time to sacrifice the offering arrived and the majority of the congregation for whom the offering is being brought is ritually impure from a corpse, or if the majority of the priests are ritually impure, the offering is nevertheless sacrificed. The meat of any such offering may not be eaten, with the exception of the Paschal offering. Instead, the sacrificial parts are burned on the altar and the rest of the animal is burned in the manner of sacrificial animals that contracted ritual impurity (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 4:11–12).

BACKGROUND

Offerings of lesser sanctity – קָדָשִׁים קַלִּים: The offerings sacrificed in the Temple are divided into two main categories: Offerings of the most sacred order and offerings of lesser sanctity. The offerings of the most sacred order include those offered on Yom Kippur, communal sin offerings, burnt-offerings, and sin-offerings. The offerings of lesser sanctity include peace-offerings, animal tithes, and the Paschal offering. One of the primary differences between the two types of offerings is that offerings of the most sacred order are slaughtered only in the north of the Temple courtyard, while offerings of lesser sanctity may be slaughtered anywhere in the courtyard. The most fundamental difference between the two types of offerings is with regard to when the animal becomes sacred and when its sanctity is nullified through misuse. Offerings of the most sacred order are sacred, and their sanctity can be nullified through misuse from the moment they are consecrated. By contrast, only certain parts of the offerings of lesser sanctity are considered sacred, and their sanctity takes effect from the time they are slaughtered. Similarly, the offerings of the most sacred order may be consumed only on the day they are sacrificed and the following night, while most offerings of lesser sanctity may be consumed on the following day as well.

וּבֵית הִלֵּל: הָנֵי מִילֵּי – תָּם, אֲבָל בַּעַל מוּם – כְּתִיב: ״הַטָּמֵא וְהַטָּהוֹר יַחְדָּיו יֹאכְלֶנּוּ״; וּמַה טָּמֵא שֶׁאֵינוֹ אוֹכֵל בְּקָדָשִׁים קַלִּים – אוֹכֵל בִּבְכוֹר, זָר שֶׁאוֹכֵל בְּקָדָשִׁים קַלִּים – אֵינוֹ דִּין שֶׁיֹּאכַל בִּבְכוֹר?

And Beit Hillel would respond to that claim: **This statement** applies only to **an unblemished** firstborn offering, which is sacrificed upon the altar. **But** concerning **a blemished** firstborn **it is written:** "You shall eat it within your gates; **the impure and the pure may eat it alike**" (Deuteronomy 12:22; see Deuteronomy 15:22). Beit Hillel derive an *a fortiori* inference: **And if a ritually impure** priest, **who may not eat** the meat **of offerings of lesser sanctity,**[HB] nevertheless **may eat** the meat **of** a blemished **firstborn** offering, then with regard to **a non-priest, who may eat** the meat of **offerings of lesser sanctity,** e.g., peace offerings and animal tithe offerings, **is it not logical that he may eat** the meat **of** a blemished **firstborn** offering?

אִיבָּא לְמֵיפְרַךְ: מַה לְּטָמֵא – שֶׁכֵּן הוּתַּר מִכְּלָלוֹ בַּעֲבוֹדַת צִבּוּר!

The Gemara raises a difficulty: This *a fortiori* inference **can be refuted: What** is notable **about** the case of **a ritually impure** priest? It is notable in **that its general** prohibition **was permitted** in certain circumstances, specifically **with regard to the communal service.**[H] If there are no ritually pure priests, the sacrificial service may be performed by ritually impure priests. By contrast, it is never permitted for a non-priest to perform the sacrificial service. Accordingly, one cannot derive the *halakha* concerning a non-priest via an *a fortiori* inference from an impure priest.

וּבֵית הִלֵּל: אַטּוּ בַּעֲבוֹדָה קָאָמַר? בַּאֲכִילָה קָאָמְרִינַן, אֲכִילַת זָר עֲדִיף.

And Beit Hillel would respond: **Is that to say** that the *a fortiori* inference was **stated with regard to** the sacrificial **service,** which was the subject of that refutation? Not so; rather, **we state** it **with regard to** the **eating** of sacrificial meat, and the **eating of a non-priest is superior** to that of a ritually impure priest. Accordingly, the refutation of the *a fortiori* inference is inapplicable.

״וְרַבִּי עֲקִיבָא מַתִּיר וַאֲפִילּוּ גּוֹיִם״. מַאי טַעְמָא דְּרַבִּי עֲקִיבָא? ״כַּצְּבִי וְכָאַיָּל״, מַה צְּבִי וְאַיָּל מוּתָּר לְגוֹי – אַף פְּסוּלִין מוּתָּר לְגוֹי.

§ The *baraita* stated that according to **Rabbi Akiva,** Beit Hillel **deems** it **permitted** for non-priests, **and even gentiles,** to partake of blemished firstborn offerings. The Gemara asks: **What is the reason of Rabbi Akiva?** The verse states: **"Like the gazelle and like the deer"** (Deuteronomy 15:22). **Just as a gazelle and a deer** are **permitted to** be eaten by **a gentile, so too, disqualified** blemished firstborn offerings are **permitted to** be eaten by **a gentile.**

וְאִידָךְ: תְּלָתָא ״צְבִי וְאַיָּל״ כְּתִיבִי, חַד לְכִדְרַבִּי יִצְחָק, וְחַד לְכִדְרַבִּי אוֹשַׁעְיָא, וְחַד לְכִדְרַבִּי אֶלְעָזָר הַקַּפָּר.

The Gemara asks: **And the other one,** i.e., the *tanna* who disagrees with Rabbi Akiva's version of the opinion of Beit Hillel, who does not deem it permitted for a gentile to partake of a blemished firstborn offering, what is his reason? The Gemara answers that the terms **"gazelle" and "hart" are written three** times in the context of disqualified consecrated animals, in Deuteronomy 12:15, 12:22, and 15:22. **One** is required **for** the statement **of Rabbi Yitzḥak and Rabbi Oshaya,**[N] **and one** is needed **for** the statement **of Rabbi Elazar HaKappar.**[N]

NOTES

One for the statement of Rabbi Yitzḥak and Rabbi Oshaya, etc. – חַד לְכִדְרַבִּי יִצְחָק וְחַד לְכִדְרַבִּי אוֹשַׁעְיָא וכו׳: The translation follows the Gemara's text according to Rashi and *Tosafot*. See Rabbeinu Gershom Meor HaGola, whose version of the text reads: One for Rabbi Yitzḥak in the name of Rabbi Oshaya. Both Rashi and Rabbeinu Gershom Meor HaGola write that they are unaware of any such statement. Rabbeinu Tam explains a halakhic ruling found in *Makkot* 22a based on the statement of the Gemara here, that there is a source in the verse for the ruling of Rabbi Yitzḥak and Rabbi Oshaya. The Gemara there cites the opinion of Rabbi Oshaya, or Hoshaya, that one who breeds a redeemed, disqualified consecrated ox with a female of its own species is considered to have transgressed the prohibition against breeding animals of diverse kinds, because they are each of a different status, and he is therefore liable to receive two sets of lashes. Similarly, Rabbi Yitzḥak maintains that even if one plows using a single redeemed, blemished ox, he is considered to have violated the Torah prohibition against plowing with two types of animals, as the verse compares it to two animals, a gazelle and a hart.

And one is needed for the statement of Rabbi Elazar HaKappar – וְחַד לְכִדְרַבִּי אֶלְעָזָר הַקַּפָּר: Rabbi Elazar HaKappar derives from the juxtaposition between disqualified consecrated animals and undomesticated animals, i.e., the gazelle and the deer, that just as consecrated animals require slaughter for their meat to be permitted, in accordance with the verse: "And you shall slaughter of your herd and of your flock" (Deuteronomy 12:21), the same applies to undomesticated animals (see *Ḥullin* 28a).

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וְאִידָךְ, מַה צְּבִי וְאַיָּל פְּטוּרִים מִן הַבְּכוֹרָה – אַף פְּסוּלֵי הַמּוּקְדָּשִׁין פְּטוּרִין מִן הַבְּכוֹרָה.

And the other[N] verse teaches that **just as a gazelle and a deer are exempt from** the first of their offspring being counted **a firstborn,** as the verse states: "All the firstling males that are born of your herd and of your flock" (Deuteronomy 15:19), referring specifically to domesticated animals but not undomesticated animals such as a gazelle and a deer; **so too, disqualified consecrated** animals **are exempt from** the first of their offspring being counted **a firstborn**[H] (see 14a).

תָּנוּ רַבָּנַן: בְּכוֹר אֵין מַאֲכִילִין אוֹתוֹ לְנִדּוֹת, דִּבְרֵי בֵּית שַׁמַּאי. וּבֵית הִלֵּל אוֹמְרִים: מַאֲכִילִין אוֹתוֹ לְנִדּוֹת. מַאי טַעְמָא דְּבֵית שַׁמַּאי? דִּכְתִיב: "וּבְשָׂרָם יִהְיֶה לָּךְ", מָה הָתָם נִדּוֹת לָא – אַף הָכָא נִדּוֹת לָא.

§ **The Sages taught** in a *baraita*: **One may not give** a blemished **firstborn** offering **to menstruating women to eat;** this is **the statement of Beit Shammai. And Beit Hillel say: One may give it to menstruating women to eat.** The Gemara asks: **What is the reason of Beit Shammai? It is written** with regard to the firstborn offering: "**And their flesh shall be yours,** as the wave breast and the right thigh" (Numbers 18:18). **Just as there,** with regard to the wave breast and the right thigh, **menstruating women** may **not** eat them, as these consecrated meats may not be eaten by a ritually impure individual, **so too here,** with regard to the firstborn offering, **menstruating women** may **not** eat its meat, as it too is consecrated.

וּבֵית הִלֵּל: הָנֵי מִילֵּי – תָּם, אֲבָל בַּעַל מוּם – הַטָּמֵא וְהַטָּהוֹר אוֹכְלָהּ.

And Beit Hillel would respond: **This statement,** i.e., this verse, is referring only to the meat of **an unblemished** firstborn offering. Only such meat is compared to the wave breast and the right thigh. **But** with regard to **a blemished** firstborn offering, the verse explicitly states that **the impure and the pure may eat it** (see Deuteronomy 15:22).

וּבֵית שַׁמַּאי: הָנֵי מִילֵּי הֵיכָא דְּאֵין טוּמְאָה יוֹצְאָה עָלָיו מִגּוּפוֹ, אֲבָל הֵיכָא דְּטוּמְאָה יוֹצְאָה עָלָיו מִגּוּפוֹ – לָא.

And Beit Shammai would claim: **This statement,** that the ritually impure may eat the meat of a blemished firstborn offering, applies only **where the impurity does not issue upon him from his** own **body** but is contracted from an external source, e.g., from a corpse or the carcass of a creeping animal. **But where the impurity issues upon him from his** own **body,** such as in the case of a *zav* or a menstruating woman, that individual may **not** eat the meat of a blemished firstborn offering.

דַּאֲשְׁכַּחַן דְּפָלֵיג רַחֲמָנָא בֵּין טוּמְאָה יוֹצְאָה עָלָיו מִגּוּפוֹ, לְבֵין שֶׁאֵין טוּמְאָה יוֹצְאָה עָלָיו מִגּוּפוֹ, דִּתְנַן: הַפֶּסַח שֶׁנִּזְבַּח בְּטוּמְאָה – לֹא יֹאכְלוּ מִמֶּנּוּ זָבִים וּמְצוֹרָעִין וְזָבוֹת וְנִדּוֹת וְיוֹלְדוֹת.

Beit Shammai continue: This is a valid distinction, **as we find that the Merciful One distinguishes between** a case where the **impurity issues upon** an individual **from his** own **body** and **between** a case where the **impurity does not issue upon him from his** own **body. As we learned** in a mishna (*Pesaḥim* 95b): When **the Paschal offering is sacrificed in** a state of **ritual impurity,**[H] due to the fact that the majority of the Jewish people are ritually impure, then ***zavim* and lepers and *zavot* and menstruating women and women after childbirth may not eat from it.** The sacrificing of the Paschal offering overrides only ritual impurity imparted by a corpse; it does not override other forms of ritual impurity.

וּבֵית הִלֵּל: הָתָם הוּא דְּגִלֵּי רַחֲמָנָא "טְמֵא נֶפֶשׁ", אֲבָל הָכָא "טָמֵא" סְתָמָא כְּתִיב, לָא שְׁנָא.

And Beit Hillel would respond: **It is** only **there,** in the case of the Paschal offering, that a difference of that kind applies, **as the Merciful One revealed** that only an individual whose impurity did not issue from his own body is permitted to eat the Paschal offering, as the verse states: "**Impure** by reason of **a dead body**" (Numbers 9:10). **But here,** with regard to the firstborn offering, the term "**impure" is written unspecified:** "The impure and the pure may eat it alike." Therefore, in this case there **is no difference** between the two types of impurity.

NOTES

And the other – וְאִידָךְ: According to the version that the names of Rabbi Yitzḥak and Rabbi Oshaya represent two different sources, this is a fourth *halakha*. This would be problematic, as the Gemara explicitly states that there are only three *halakhot*. For this reason, some commentaries maintain that this phrase should be deleted (*Shita Mekubbetzet*). Others suggest that this alludes to the opinion in *Ḥullin* that disagrees with the ruling of Rabbi Elazar HaKappar (*Mayim Kedoshim*).

HALAKHA

Disqualified consecrated animals are exempt from their offspring being counted a firstborn – פְּסוּלֵי הַמּוּקְדָּשִׁין פְּטוּרִין מִן הַבְּכוֹרָה: The *halakhot* relating to the firstborn offering do not apply to blemished consecrated offerings prior to their redemption, whether they are consecrated for Temple maintenance or to be sacrificed upon the altar (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:5; see also 5:8).

When the Paschal offering is sacrificed in a state of ritual impurity – פֶּסַח שֶׁנִּזְבַּח בְּטוּמְאָה: A Paschal offering brought in a state of ritual impurity may be eaten by an impure person *ab initio* only if he is impure due to ritual impurity imparted by a corpse or due to contact with another source of impurity (see *Leḥem Mishne*). One whose own body is the source of his ritual impurity, e.g., a woman who just gave birth, a leper, a *zav*, or a *zava*, may not eat the Paschal offering. If one does eat from it, he or she is not liable to receive *karet* (Rambam *Sefer Korbanot*, *Hilkhot Korban Pesaḥ* 7:8).

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BACKGROUND

One may not skin an animal from its feet – אֵין מַרְגִּילִין: Skins are made from whole hides removed from various animals. They are used for many purposes, but especially for holding various objects and foodstuffs. In order to function as a container of liquids, e.g., water, wine, or oil, a hide must be carefully skinned without any punctures or perforations.



Man carrying jug fashioned from a whole hide

LANGUAGE

Skin an animal from its feet [*margilin*] – מַרְגִּילִין: This verb is from the word *regel*, foot. It refers to the act of removing the animal's flesh by way of one of its legs in order to preserve the entire hide in one piece without tearing it. Some suggest that it is referring to the act of beginning the flaying of the hide from the feet of the animal.

תָּנוּ רַבָּנַן: אֵין מַרְגִּילִין בְּיוֹם טוֹב. כֵּיוֹצֵא בּוֹ, אֵין מַרְגִּילִין בִּבְכוֹר וְלֹא בִּפְסוּלֵי הַמּוּקְדָּשִׁין.

§ **The Sages taught** in a *baraita*: **One may not skin an animal from its feet** [*margilin*]BL **on a Festival.**H Although it is permitted to slaughter and skin an animal on a Festival, one may not skin it in such a manner that he will retain the hide intact to function as a vessel. **Similarly, one may not skin a firstborn** offering **from its feet,** even on a weekday and even if it is blemished, **nor** is skinning by way of the feet permitted **in** the case of **disqualified consecrated** animals.H Such an act is considered degrading to the animal, even if the animal has been redeemed and slaughtered.

בְּשֶׁלָּמָא יוֹם טוֹב – דְּקָא טָרַח טִירְחָא דְּלָא חֲזִי לֵיהּ. אֶלָּא בְּכוֹר, מַאן תַּנָּא? אָמַר רַב חִסְדָּא: בֵּית שַׁמַּאי הִיא, דְּאָמַר אֵין מַאֲכִילִין אוֹתוֹ לְנִדּוֹת.

The Gemara asks: **Granted,** one may not skin an animal from its feet on **a Festival, as one is** thereby **performing an effort whose** outcome **is not needed for** use on the Festival. **But** with regard to **a firstborn** offering, **who** is the *tanna* who **taught** that skinning it from its feet is prohibited? **Rav Ḥisda says: It is** the opinion of **Beit Shammai, who say** that **one may not feed** the meat of a firstborn offering **to menstruating women.** According to Beit Shammai, a blemished firstborn retains its sanctity as though it were unblemished, and must be treated in the manner of sacrificial meat. Skinning an animal from its feet is considered an act inappropriate for such meat and is therefore prohibited.

"וְלֹא בִּפְסוּלֵי הַמּוּקְדָּשִׁין". מַאן תַּנָּא? אָמַר רַב חִסְדָּא: רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן הִיא. דְּתָנֵי רַבִּי לְפָנָיו שְׁתֵּי חַטָּאוֹת, אַחַת תְּמִימָה וְאַחַת בַּעֲלַת מוּם, תְּמִימָה – תִּקָּרֵב, בַּעֲלַת מוּם – תִּיפָּדֶה.

The Gemara analyzes the next clause of the *baraita*: **Nor** is skinning by way of the feet permitted **in** the case of **disqualified consecrated** animals. The Gemara asks: **Who** is the *tanna* who **taught** this? **Rav Ḥisda says: It is Rabbi Elazar, son of Rabbi Shimon, as we learned** in a *baraita*: One **had before him two sin offerings**H that he consecrated to achieve atonement for his sin so that in the event that one of them was lost or died the other would effect atonement. **One** of them was **unblemished and** the other **one** became **blemished** after having been consecrated. The *halakha* is that the **unblemished** offering **should be sacrificed,** whereas the **blemished** one **should be redeemed.**

נִשְׁחֲטָה בַּעֲלַת מוּם, אִם עַד שֶׁלֹּא נִזְרַק דָּמָהּ שֶׁל תְּמִימָה – מוּתֶּרֶת, אִם מִשֶּׁנִּזְרַק דָּמָהּ שֶׁל תְּמִימָה – אֲסוּרָה.

The *baraita* continues: **If** the **blemished** animal **was** redeemed and **slaughtered before the blood of** the **unblemished** one **was sprinkled** on the altar to effect the atonement, the blemished animal is **permitted** to be eaten. But **if** the blemished one was slaughtered after **the blood of the unblemished** animal **was already sprinkled** upon the altar, the blemished animal is **prohibited** both in consumption and benefit. Since its owner's atonement is effected by the sprinkling of the blood of the unblemished offering on the altar, at this stage the blemished animal must be put to death, in accordance with the *halakha* that a sin offering whose owner achieved atonement with another sin offering must die.

HALAKHA

One may not skin an animal from its feet on a Festival – אֵין מַרְגִּילִין בְּיוֹם טוֹב: It is prohibited to skin an animal from its feet on a Festival. This is referring to the removal of its flesh through one of its legs in order to leave the hide completely intact. It is prohibited to do so on a Festival as this requires much effort and is not needed for the Festival itself (Rambam *Sefer Zemanim*, *Hilkhot Yom Tov* 3:6; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 499:1).

One may not skin a firstborn offering from its feet nor in the case of disqualified consecrated animals – אֵין מַרְגִּילִין בִּבְכוֹר וְלֹא בִּפְסוּלֵי הַמּוּקְדָּשִׁין: The Rambam rules that one may skin a blemished firstborn animal, or any disqualified consecrated animal, in any manner he so chooses, even from its feet. The commentaries explain that the *halakha* is in accordance neither with Beit Shammai nor Rabbi Elazar, son of Rabbi Shimon, but in accordance with the opinion of Beit Hillel, who maintain that a disqualified consecrated animal is considered non-sacred (*Kesef Mishne*). The *Tur*, citing the Rosh, and the *Shulḥan Arukh* rule that one may not skin a firstborn offering or any disqualified consecrated animal from its feet (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:19; *Shulḥan Arukh*, *Yoreh De'a* 307:1).

One had before him two sin offerings – הָיוּ לְפָנָיו שְׁתֵּי חַטָּאוֹת: In a case where one designated an animal as a sin offering and it became lost, and then designated a second animal as a sin offering, and then the first animal was found, if he uses one of them as his offering, the other must die. If one of the animals was blemished and the other unblemished, the unblemished animal is used and the blemished one is redeemed. If the blemished animal was slaughtered before the blood of the unblemished one was sprinkled on the altar, one is prohibited to derive benefit from the blemished animal. Apparently, the Rambam rules in accordance with Rabbi Elazar, son of Rabbi Shimon, which is puzzling, as this is a minority opinion. The *Kesef Mishne* and *Leḥem Mishne* suggest that there is a copyist's error in the Rambam and it should read, following the opinion of the Rabbis, that the blemished animal is permitted if slaughtered prior to the sprinkling of the blood of the unblemished animal (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 4:3, and see Mahari Kurkus there).

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רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן אוֹמֵר: אֲפִילּוּ בָּשָׂר בַּקְּדֵירָה, וְנִזְרַק דָּמָהּ שֶׁל תְּמִימָה – אֲסוּרָה.

Rabbi Elazar, son of Rabbi Shimon, says: Even if the blemished animal was slaughtered and its **meat** is being cooked **in the pot, and** only then was the **blood of the unblemished** animal **sprinkled** on the altar, the meat of the blemished animal is still **prohibited.** Rabbi Elazar, son of Rabbi Shimon, maintains that disqualified blemished offerings retain a measure of their sanctity even after being slaughtered. Since the blemished sin offering was not yet eaten when the blood of the unblemished one was sprinkled, it is considered a sin offering whose owner has achieved atonement, and therefore it is prohibited for one to derive benefit from it. The opinion of Rabbi Elazar, son of Rabbi Shimon, accords with the ruling of the *baraita* with regard to skinning a disqualified consecrated animal from its feet.

וְרַב חִסְדָּא, לוֹקְמָהּ כּוּלָּהּ כְּבֵית שַׁמַּאי! דִּילְמָא, עַד כָּאן לָא קָאָמְרִי בֵּית שַׁמַּאי אֶלָּא בִּבְכוֹר, דִּקְדוּשָּׁתוֹ מֵרֶחֶם, אֲבָל פְּסוּלֵי הַמּוּקְדָּשִׁין, דְּאֵין קְדוּשָּׁתוֹ מֵרֶחֶם – לָא.

The Gemara raises a difficulty: **But let Rav Ḥisda establish the entire** *baraita* **in accordance with** the opinion of **Beit Shammai.** The Gemara explains: **Perhaps Beit Shammai say** that the sanctity of a blemished offering is retained **only in** the case of **a firstborn** offering, **as its sanctity is from the womb. But** with regard to **a disqualified consecrated** animal, **whose sanctity is not from the womb,** perhaps they do **not** maintain that its sanctity remains even after it has been slaughtered. It is therefore necessary to attribute the latter clause of the *baraita* to Rabbi Elazar, son of Rabbi Shimon.

Perek **V**
Daf **33** Amud **b**

וְלוֹקְמָהּ כּוּלָּהּ כְּרַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן! דִּילְמָא עַד כָּאן לָא קָאָמַר רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן הָתָם, אֶלָּא פְּסוּלֵי הַמּוּקְדָּשִׁין – דְּאַלִּימִי לְמִיתְפַּס פִּדְיוֹנוֹ, אֲבָל בְּכוֹר דְּלָא אַלִּים לְמִיתְפַּס פִּדְיוֹנוֹ – לָא.

The Gemara suggests: **But** if so, **let** Rav Ḥisda **establish the entire** *baraita* **in accordance with** the opinion of **Rabbi Elazar, son of Rabbi Shimon.** The Gemara answers: **Perhaps Rabbi Elazar, son of Rabbi Shimon, says** that the sanctity of a slaughtered blemished offering is retained **only there,** with regard to other **disqualified consecrated** animals, **because** their level of sanctity is **strong** enough **to transfer** their sanctity to their **redemption** money. **But** with regard to a blemished **firstborn** offering, **whose** level of sanctity is **not strong** enough **to transfer** it to **its redemption** money, perhaps its sanctity is **not** retained, and therefore one may skin the hide from its feet.

וְרַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן לֵית לֵיהּ כָּל פְּסוּלֵי הַמּוּקְדָּשִׁין נִמְכָּרִין בְּאִיטְלִיז וְנִשְׁקָלִין בְּלִיטְרָא? אַלְמָא: דְּבֵיוָן דְּאִיכָּא רְווּחָא לְהֶקְדֵּשׁ – שָׁרֵי לָהּ!

The Gemara asks: **But doesn't Rabbi Elazar, son of Rabbi Shimon,** agree with the ruling of the mishna (31a) that **all disqualified consecrated** animals **are sold in the butchers' market and weighed** and sold **by the *litra,*** in the manner of non-sacred meat? Certainly he agrees with that *halakha*. **Evidently, since there is a benefit** that accrues **to** the **Temple** treasury, the *tanna* of the mishna **deems this permitted.** As it was taught (31b), the meat of disqualified consecrated animals may be treated in this manner despite the fact that it retains a measure of sanctity. The reason is that if the owner knows that it is permitted for him to perform this more lucrative action, he is likely to spend more money to redeem the animal in the first place, which benefits the Temple treasury. By the same logic, why doesn't Rabbi Elazar, son of Rabbi Shimon, permit the more lucrative action of skinning the animal from its feet?

אָמַר רַב מָרִי בְּרֵיהּ דְּרַב כָּהֲנָא: מַה שֶּׁמַּשְׁבִּיחַ בָּעוֹר – פָּגַם בַּבָּשָׂר. בְּמַעֲרָבָא מְשַׁמְּיהּ דְּרַבִּינָא אָמְרִי: מִפְּנֵי שֶׁנִּרְאָה כְּעוֹבֵד עֲבוֹדָה בְּקָדָשִׁים.

The Gemara cites several resolutions. **Rav Mari, son of Rav Kahana, said** that **the benefit gained to the hide** by skinning it whole is offset by the **detriment** caused **to the flesh.**[N] Part of the animal's flesh is severed from the carcass during the skinning process, thereby lowering its value. **In the West,** Eretz Yisrael, **they say in the name of Ravina** that skinning a disqualified consecrated animal from its feet is prohibited **because it appears as though** he is **performing work with sacrificial** animals,[N] which is prohibited.

NOTES

The benefit gained to the hide by skinning it whole is offset by the detriment caused to the flesh – מַה שֶּׁמַּשְׁבִּיחַ בָּעוֹר פָּגַם בַּבָּשָׂר: According to Rashi, a portion of the flesh is severed while skinning the hide whole. This results in a depreciation of the animal's value, and no monetary gain accrues to the Temple treasury (see *Avoda Zara* 49a). Others explain that even if the Temple treasury gains a profit, nevertheless, skinning the hide whole is prohibited, as the severance of the flesh, which is an inevitable effect of the process, is considered a degradation to consecrated animals (see Rabbeinu Gershom Meor HaGola).

Because it appears as though he is performing work with sacrificial animals – מִפְּנֵי שֶׁנִּרְאָה כְּעוֹבֵד עֲבוֹדָה בְּקָדָשִׁים: Rashi maintains that this is referring back to the beginning of the Gemara's discussion on 33a about skinning the animal; see also the Jerusalem Talmud, *Beitza* 3:6. If so, the prohibition against skinning the hide of a disqualified consecrated animal fits the opinions of both Beit Shammai and Beit Hillel. Others indicate that the reasoning mentioned in the Gemara here applies only to the opinion of Beit Shammai, whereas according to the opinion of Beit Hillel, no prohibition exists (Rambam).

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רַבִּי יוֹסֵי בַּר אָבִין אוֹמֵר: גְּזֵירָה שֶׁמָּא יְגַדֵּל מֵהֶן עֲדָרִים עֲדָרִים.

Rabbi Yosei bar Avin says that this prohibition is a rabbinic **decree, lest one** retain the disqualified consecrated animals in his possession while waiting for a consumer to purchase the hides, and in the meantime **raise many herds** of disqualified animals **from them.** In such a case, he might shear or work the animals in a prohibited manner.

מתני׳ בְּכוֹר שֶׁאֲחָזוֹ דָּם, אֲפִילּוּ מֵת – אֵין מַקִּיזִין לוֹ דָּם, דִּבְרֵי רַבִּי יְהוּדָה. וַחֲכָמִים אוֹמְרִים: יַקִּיז, וּבִלְבַד שֶׁלֹּא יַעֲשֶׂה בּוֹ מוּם, וְאִם עָשָׂה בּוֹ מוּם – הֲרֵי זֶה לֹא יִשְׁחֹט עָלָיו. רַבִּי שִׁמְעוֹן אוֹמֵר: יַקִּיז, אַף עַל פִּי שֶׁהוּא עוֹשֶׂה בּוֹ מוּם.

MISHNA With regard to **a firstborn** animal **that was congested with** excess **blood,**[H] **even** if the animal will **die** if one does not let the excess blood, **one may not let its blood,**[B] as this might cause a blemish, and it is prohibited to cause a blemish on consecrated animals. This is **the statement of Rabbi Yehuda. And the Rabbis say: One may let** the blood **provided that he will not cause a blemish** while doing so, **and if he caused a blemish, the animal may not be slaughtered on** account **of that** blemish. Since he was the cause of the blemish, he may not slaughter the animal until it develops a different, unrelated blemish. **Rabbi Shimon says: One may let** the blood **even if he** thereby **causes a blemish** in the animal.

גמ׳ תָּנוּ רַבָּנָן: בְּכוֹר שֶׁאֲחָזוֹ דָּם – מַקִּיזִין לוֹ אֶת הַדָּם בְּמָקוֹם שֶׁאֵין עוֹשִׂים בּוֹ מוּם, וְאֵין מַקִּיזִין לוֹ אֶת הַדָּם בְּמָקוֹם שֶׁעוֹשִׂין בּוֹ מוּם, דִּבְרֵי רַבִּי מֵאִיר.

GEMARA **The Sages taught** in a *baraita*: With regard to **a firstborn** animal **that was congested with** excess **blood,** and which can be healed only through bloodletting, **one may let** the animal's **blood** by cutting it **in a place where** the incision **does not cause** a permanent **blemish. But one may not let** the animal's **blood** by cutting it **in a place where** the incision **causes** a permanent **blemish,** as it is prohibited to intentionally cause a blemish in a firstborn animal; this is **the statement of Rabbi Meir.**

וַחֲכָמִים אוֹמְרִים: אַף בְּמָקוֹם שֶׁעוֹשֶׂה בּוֹ מוּם, וּבִלְבַד שֶׁלֹּא יִשְׁחֹט עַל אוֹתוֹ הַמּוּם. רַבִּי שִׁמְעוֹן אוֹמֵר: אַף נִשְׁחָט עַל אוֹתוֹ הַמּוּם. רַבִּי יְהוּדָה אוֹמֵר: אֲפִילּוּ מֵת – אֵין מַקִּיזִין לוֹ אֶת הַדָּם.

And the Rabbis say: One may even let the animal's blood by cutting it **in a place where** the incision **causes** a permanent **blemish, provided that he does not slaughter** the animal **on** the basis **of that blemish,** even though in general, a firstborn animal may be slaughtered once it develops any permanent blemish. **Rabbi Shimon says:** The animal **may even be slaughtered on** the basis **of that blemish.**[N] **Rabbi Yehuda says: Even** if the firstborn would **die** if its blood is not let, **one may not let its blood**[N] at all.

HALAKHA

A firstborn animal that was congested with blood – בְּכוֹר שֶׁאֲחָזוֹ דָּם: One may let the excess blood of a firstborn animal for medical purposes, provided that he has no intention of causing a blemish. If, however, one did cause a blemish, the animal may be slaughtered on its account. This *halakha* is in accordance with the opinion of Rabbi Shimon cited in the *baraita*, following Shmuel's ruling on the next *amud*. The Rosh, cited by both the *Tur* and the *Taz*, maintains that the animal may not be slaughtered on account of that particular blemish, in accordance with the opinion of the Rabbis (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:13; *Shulḥan Arukh*, *Yoreh De'a* 313:6).

BACKGROUND

One may not let its blood – אֵין מַקִּיזִין לוֹ דָּם: Bloodletting involves drawing small quantities of blood. It was practiced both as a cure and as a preventive treatment that promotes good health. Bloodletting was based on the ancient medical belief that an equilibrium of blood and other bodily fluids, known as humors, was essential to maintaining an individual's health. It was the most common medical procedure performed on both humans and animals for almost two millennia, from antiquity through the end of the nineteenth century. Today it is medically established that bloodletting is not an effective treatment for most diseases. The only condition still treated with bloodletting is polycythemia vera, a disease in which the body produces an excess of red blood cells. Among the symptoms of this condition are bleeding gums, excessive bleeding from ordinary cuts and bruises, and skin with a reddish tinge. It is possible that the mishna is referring to this condition.



Medieval Persian bowl with bloodletting scene

NOTES

The animal may even be slaughtered on the basis of that blemish – אַף נִשְׁחָט עַל אוֹתוֹ הַמּוּם: Two explanations are offered for Rabbi Shimon's opinion. Some say that this ruling accords with Rabbi Shimon's principle that a permitted action from which an unintended prohibited result ensues is permitted. Here too, since the one performing the bloodletting seeks to heal the animal, his action is permitted. Consequently, once it is blemished, he may slaughter and eat the firstborn (Rashi). According to this explanation, Rabbi Shimon's lenient ruling applies only in a case where he did not intend to cause a blemish and slaughter it, but if he had that result in mind, even Rabbi Shimon concedes that the act is prohibited and he may not slaughter it. Furthermore, if the blemish is an inevitable consequence of his bloodletting, Rabbi Shimon agrees that it is prohibited, as the principle that a permitted action from which an unintended prohibited result ensues is permitted does not apply to an inevitable consequence of one's act.

Others maintain that Rabbi Shimon deems it permitted for one to let the blood of a firstborn even if he intends to cause a blemish so that he will be able to slaughter it. According to this opinion, Rabbi Shimon's lenient ruling is not connected to his opinion concerning a permitted action from which an unintended prohibited result ensues. Rather, his reasoning is that since there is no way of healing this animal other than by letting its blood and incidentally causing a blemish, this is analogous to one who causes a blemish in an already blemished animal (*Tosafot*; Rosh on *Bekhorot* 32b). If so, Rabbi Shimon's ruling applies even if he intends to cause a blemish, but only when the sole way to heal the firstborn is through a bloodletting that will result in a blemish. If it is possible to avoid causing a blemish, Rabbi Shimon agrees that one must act accordingly (*Tosafot*).

Rabbi Yehuda says: Even if it would die one may not let its blood – רַבִּי יְהוּדָה אוֹמֵר אֲפִילּוּ מֵת אֵין מַקִּיזִין לוֹ אֶת הַדָּם: Rabbi Yehuda's opinion is explained in tractate *Pesaḥim* (11a–b). Rabbi Yehuda agrees with Rabbi Meir that one may not let the blood of a firstborn in a place where this will cause a blemish. His opinion is even more stringent than Rabbi Meir's, as Rabbi Yehuda rules that bloodletting may not be performed even where it will not cause a blemish, and even if the animal will die without bloodletting. The reason is that since one is alarmed about the potential loss to his property, if he is permitted to let blood in a spot where it will not cause a blemish he is apt to do so in a place where it will cause a blemish. By contrast, the Rabbis contend that the consideration that people are alarmed about their property leads to the opposite conclusion, that one should be allowed to let the animal's blood if it will not lead to a blemish. They claim that if the *halakha* does not permit this individual to act at all, he will proceed to let the animal's blood even in a prohibited manner.

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מַתְנִי לֵיהּ רַבִּי אֶלְעָזָר לִבְרֵיהּ, וְאָמְרִי לָהּ רַבִּי חִיָּיא לִבְרֵיהּ: כְּמַחֲלוֹקֶת כָּאן, כָּךְ מַחֲלוֹקֶת בְּחָבִית שֶׁל תְּרוּמָה. דְּתָנַן: חָבִית שֶׁל תְּרוּמָה שֶׁנּוֹלַד בָּהּ סְפֵק טוּמְאָה, רַבִּי אֱלִיעֶזֶר אוֹמֵר: אִם הָיְתָה בִּמְקוֹם הַתּוּרְפָּה – יַנִּיחֶנָּה בְּמָקוֹם הַמּוּצְנָע, אִם הָיְתָה מְגוּלָּה – יְכַסֶּנָּה.

The Gemara relates: **Rabbi Elazar taught his son, and some say** it was **Rabbi Ḥiyya** who taught **his son:** Just **as** there is **a dispute here** in this *baraita* with regard to bloodletting, **so** there is **a dispute** in a mishna **with regard to a barrel of *teruma*. As we learned** (*Terumot* 8:8): In the case of **a barrel of *teruma*** [H] oil **with regard to which uncertainty developed** concerning its status of **ritual impurity,** and which therefore may not be eaten, **Rabbi Eliezer says** that one must nevertheless safeguard the *teruma* from impurity. Therefore, **if** the barrel **was resting in a vulnerable location,** where it might come into contact with impurity, one **should place it in a concealed location, and if it was exposed, he should cover it.**

רַבִּי יְהוֹשֻׁעַ אוֹמֵר: אִם הָיְתָה מוּנַּחַת בְּמָקוֹם הַמּוּצְנָע – יַנִּיחֶנָּה בִּמְקוֹם הַתּוּרְפָּה, אִם הָיְתָה מְכוּפָּה – יְגַלֶּנָּה. רַבָּן גַּמְלִיאֵל אוֹמֵר: לֹא יְחַדֵּשׁ בָּהּ דָּבָר.

Rabbi Yehoshua says: That is not necessary. Rather, **if it was placed in a concealed location,** one **may place it in a vulnerable location. If it was covered he may expose it,** as he need no longer safeguard this *teruma* from impurity. **Rabban Gamliel says:** One **should do nothing new with it,** i.e., he should leave the barrel as it is.

רַבִּי מֵאִיר – כְּרַבִּי אֱלִיעֶזֶר, וְרַבָּנַן – כְּרַבִּי יְהוֹשֻׁעַ, וְרַבִּי יְהוּדָה – כְּרַבָּן גַּמְלִיאֵל.

The Gemara clarifies: **Rabbi Meir,** who deems it permitted to let the firstborn offering's blood provided that one does not cause a blemish, holds **in accordance with** the opinion of **Rabbi Eliezer,** who deems it prohibited to place the barrel in an exposed location lest it become ritually impure, which is equivalent to a blemish. **And the Rabbis,** who deem bloodletting permitted even if it will cause a blemish, hold **in accordance with** the opinion of **Rabbi Yehoshua,** who rules that the contents of the barrel may be exposed to ritual impurity. **And Rabbi Yehuda,** who says that bloodletting is not permitted under any circumstance, holds **in accordance with** the opinion of **Rabban Gamliel,** who rules that the barrel should be left as is and not be handled at all.

מִמַּאי? דִּלְמָא עַד כָּאן לָא קָאָמַר רַבִּי מֵאִיר הָתָם – דְּקָא עָבֵיד בִּידַיִם, אֲבָל הָכָא דִּגְרָמָא – כְּרַבִּי יְהוֹשֻׁעַ סְבִירָא לֵיהּ!

The Gemara rejects this suggestion: **From where** can one prove that these comparisons are accurate? **Perhaps Rabbi Meir states** his opinion, that one may not let blood in a place that will cause a blemish, **only there, as** the individual is **causing** the blemish **by** direct **action. But here,** in the case of the barrel, **where** the ritual impurity results **from an indirect** action, perhaps **he holds in accordance with** the opinion of **Rabbi Yehoshua.**

וְעַד כָּאן לָא קָאָמַר רַבִּי אֱלִיעֶזֶר הָתָם אֶלָּא שֶׁמָּא יָבֹא אֵלִיָּהוּ וְיטַהֲרֶנָּה, אֲבָל הָכָא, דְּאִי שָׁבֵיק לֵיהּ מֵיֵית – כְּרַבָּנַן סְבִירָא לֵיהּ!

And furthermore, perhaps **Rabbi Eliezer states** his opinion that the barrel should be protected **only here,** because **perhaps Elijah will come**[B] **and deem it ritually pure. But there,** with regard to the firstborn offering, **where if one leaves** the animal **it will** certainly **die,** perhaps **he holds in accordance with the** opinion of **the Rabbis,** that bloodletting is permitted in order to prevent the animal's death.

וְעַד כָּאן לָא קָאָמְרִי רַבָּנַן הָכָא – דְּאִי שָׁבֵיק לֵיהּ מֵיֵית, אֲבָל הָתָם, שֶׁמָּא יָבֹא אֵלִיָּהוּ וְיטַהֲרֶנָּה – כְּרַבִּי אֱלִיעֶזֶר סְבִירָא לְהוּ! וְעַד כָּאן לָא קָאָמַר רַבִּי יְהוּדָה הָכָא – דְּקָא עָבֵיד בִּידַיִם, אֲבָל הָתָם, דִּגְרָמָא – כְּרַבִּי יְהוֹשֻׁעַ סְבִירָא לֵיהּ!

And likewise, **perhaps the Rabbis state** their opinion **only here,** with regard to the firstborn offering, **as if one leaves it,** the animal **will** certainly **die. But there,** in the case of the barrel of *teruma*, perhaps they accept the claim that one must safeguard the *teruma*, because **perhaps Elijah will come and deem it ritually pure,** which would mean that **they hold in accordance with** the opinion of **Rabbi Eliezer.** It can also be suggested that **Rabbi Yehuda states** his opinion, that bloodletting is prohibited in all circumstances, **only here,** with regard to the firstborn offering, **as** the individual is **causing** the blemish **by** direct **action. But there,** in the case of the barrel, **where** the ritual impurity results from an **indirect** action, perhaps **he holds in accordance with** the opinion of **Rabbi Yehoshua.**

HALAKHA

A barrel of *teruma* – חָבִית שֶׁל תְּרוּמָה: In the case of a barrel containing *teruma*, with regard to which uncertainty developed concerning the status of its ritual impurity, one may not touch the barrel, nor may it be moved or uncovered. Rather, it must be left untouched until its contents definitely contract ritual impurity, at which point the contents are burned. There is no concern that one might inadvertently eat some of the contents if the barrel is left untouched. This *halakha* is in accordance with the opinion of Rabban Gamliel (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 12:3).

BACKGROUND

Perhaps Elijah will come – שֶׁמָּא יָבֹא אֵלִיָּהוּ: The idea that Elijah will come is a standard concept found in the Talmud that is important for determining uncertain matters in cases of *halakha*. It originates in the book of Ezra where an uncertainty is left unresolved "until there stood up a priest with the *Urim VeTummim*" (Ezra 2:63). Elijah will not come to establish new *halakhot*, since it is not permitted for a prophet to legislate law or even to resolve halakhic dilemmas, but to resolve, utilizing his prophetic powers, uncertainties that arise due to the lack of sufficient evidence to fully resolve the question.

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וְעַד כָּאן לָא קָאָמַר רַבָּן גַּמְלִיאֵל הָתָם – דְּשָׁמָּא יָבֹא אֵלִיָּהוּ וְיטַהֲרֶנָּה, אֲבָל הָכָא, דְּאִי שָׁבִיק לֵיהּ מָיֵית – כְּרַבָּנַן סְבִירָא לֵיהּ!

And perhaps **Rabban Gamliel states** his opinion, that the barrel should not be moved at all, **only there,** because **perhaps Elijah will come and deem it ritually pure. But here,** with regard to the firstborn offering, **where if one leaves it, it will** certainly **die,** it is possible that **he holds in accordance with** the opinion of **the Rabbis.**

וְעוֹד: הָכָא בִּקְרָאֵי פְּלִיגִי, וְהָכָא בִּקְרָאֵי פְּלִיגִי. דְּאָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: הַכֹּל מוֹדִים בִּמְחַמֵּץ אַחַר מְחַמֵּץ – שֶׁהוּא חַיָּיב, דִּכְתִיב: ״לֹא תֵאָפֶה חָמֵץ״ וְ״לֹא תֵעָשֶׂה״;

And furthermore, one cannot draw parallels between the opinions of the two sources, as **here** the *tanna'im* **disagree with regard to** the exposition of certain **verses, and there they disagree with regard to** the exposition of certain other **verses. As Rabbi Ḥiyya bar Abba says** that **Rabbi Yoḥanan says: All** of the Sages who disagree as to whether one may let the blood of the firstborn animal **concede that one who leavens** a meal offering **after** another had already **leavened**[H] it is **liable** to receive lashes for the additional leavening, **as it is written: "It shall not be baked with leaven"** (Leviticus 6:10), **and** it is also stated: "No meal offering that you sacrifice to God **shall be made** with leaven" (Leviticus 2:11). This indicates that one is liable for every act of leavening performed on a meal offering.

בִּמְסָרֵס אַחַר מְסָרֵס – שֶׁהוּא חַיָּיב, דִּכְתִיב: ״וּמָעוּךְ וְכָתוּת וְנָתוּק וְכָרוּת״, אִם עַל כּוֹרֵת חַיָּיב, עַל נוֹתֵק לֹא כָּל שֶׁכֵּן? אֶלָּא לְהָבִיא נוֹתֵק אַחַר כּוֹרֵת שֶׁהוּא חַיָּיב;

Similarly, everyone agrees **that one who castrates** an animal **after one who has** already **castrated**[H] it **is liable, as it is written: "Those whose testicles are bruised or crushed or detached or cut** shall not be offered to the Lord, and you shall not do this in your land" (Leviticus 22:24). **If one is liable** when the seminal vesicles **are cut,** then when the testicles **are detached**[N] altogether, is he **not all the more so** liable? **Rather,** this verse serves to **include** one who **detaches** the testicles **after** one who **cuts** the seminal vesicles, to indicate **that he is liable.** Apparently, one is liable for castrating an animal that is already sterilized.

לֹא נֶחְלְקוּ אֶלָּא בְּמַטִּיל מוּם בְּבַעַל מוּם, דְּרַבִּי מֵאִיר סָבַר: ״כָּל מוּם לֹא יִהְיֶה בּוֹ״, וְרַבָּנַן סָבְרִי: ״תָּמִים יִהְיֶה לְרָצוֹן״.

These Sages **disagree only with regard to one who causes a blemish in** an already **blemished** animal,[H] such as one whose blood circulation is constricted. **As Rabbi Meir maintains** that as the verse states: "It shall be perfect to be accepted; **there shall be no blemish in it"** (Leviticus 22:21), this categorical statement includes even the causing of a blemish in an offering that is already blemished. **And the Rabbis maintain** that the phrase **"It shall be perfect to be accepted"** indicates that the prohibition against causing a blemish applies only to an animal that is currently perfect, i.e., unblemished, and can therefore be accepted, i.e., it is fit to be sacrificed upon the altar. If the animal is already blemished, there is no prohibition against causing an additional blemish in it.

וְרַבִּי מֵאִיר, הַאי ״תָּמִים יִהְיֶה לְרָצוֹן״ מַאי עָבֵיד לֵיהּ? מִיבָּעֵי לֵיהּ לְמַעוּטֵי בַּעַל מוּם מֵעִיקָּרוֹ.

The Gemara asks: **And Rabbi Meir, what does he do with this** verse: **"It shall be perfect to be accepted"?** The Gemara answers: **That** verse serves **to exclude** only an animal that was **blemished from the outset,** i.e., an animal that was born with a blemish. In such a case, there is no prohibition against causing an additional blemish in it. But if the animal was initially unblemished and later developed a blemish, it is prohibited to cause another blemish in it.

בַּעַל מוּם מֵעִיקָּרוֹ – פְּשִׁיטָא, דִּיקְלָא בְּעָלְמָא הוּא!

The Gemara rejects this suggestion: There is no need to exclude an animal that was **blemished from the outset,** as **it is merely like a palm tree,** i.e., it can never attain the status of an animal consecrated as an offering. Therefore, it is obvious that the prohibition against causing a blemish does not apply to this animal.

HALAKHA

One who leavens after another already leavened – מְחַמֵּץ אַחַר מְחַמֵּץ: All meal offerings brought to the altar are unleavened. Likewise, the remainders of the meal offering, eaten by the priests, may be eaten only unleavened. If one leavened the remainders, he is liable to receive lashes. One who leavens a meal offering that has already been leavened is also liable. In addition, one is liable for any action of leavening. Therefore, if one kneaded, shaped, patterned, or baked a meal offering into a leavened product, he is liable on account of each action. This ruling is based on the verses: "It shall not be made with leaven" (Leviticus 2:11), and: "It shall not be baked with leaven" (Leviticus 6:10), from which it is derived that there is a separate transgression for each action pertaining to leavening (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 12:14–15).

One who castrates after one who has castrated – מְסָרֵס אַחַר מְסָרֵס: It is prohibited to remove or destroy the male reproductive organs of a human being, an animal, or a bird. By Torah law, one who performs castration is liable to receive lashes. The prohibition applies even if one only adds to the castration of a male that had already been castrated. Therefore, if one severed a person's member, and another cut off or removed the testicles from the scrotum, and yet another cut the spermatic cords; or if one crushed a person's member, and another detached it, and yet another severed it, they are all liable to receive lashes. The same applies to an animal (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 16:10–11; *Shulḥan Arukh*, *Even HaEzer* 5:11).

One who causes a blemish in an already blemished animal – מַטִּיל מוּם בְּבַעַל מוּם: By Torah law, it is permitted to cause a permanent blemish in a firstborn offering that has a temporary blemish, in accordance with the opinion of the Rabbis in the *baraita* (Rosh). This is prohibited by rabbinic law. Some suggest that according to the Rambam the permission to cause a blemish applies only to an animal that already has a permanent blemish, whereas one who causes a blemish in an animal that has a temporary blemish is liable to receive lashes; see Maharit Algazi and *Ḥazon Ish* (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 1:8; *Shulḥan Arukh*, *Yoreh De'a* 313:5).

NOTES

Cut…detached – כּוֹרֵת…נוֹתֵק: Various explanations are suggested for these terms, which refer to very similar injuries to the testicles. Some say that cutting refers to the severing of the testicles from their attachment to the spermatic cords, whereas detaching is the removal of the testicles from the scrotum (Rashi). Alternatively, both actions involve the severing of the spermatic cords, and the difference lies in the manner of their performance: Cutting is performed with an implement, while detaching is performed by hand (Rashi on 39b). Others explain that cutting refers to one who severs the scrotum but leaves the testicles hanging, and detaching refers to one who removes the testicles themselves (Rabbeinu Gershom Meor HaGola; see 39b).

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אֶלָּא לְמַעוּטֵי פְּסוּלֵי הַמּוּקְדָּשִׁין לְאַחַר פִּדְיוֹנָן; סָלְקָא דַּעְתָּךְ אָמִינָא: הוֹאִיל וַאֲסִירִי בִּגִיזָּה וַעֲבוֹדָה – בְּמוּמִין נַמִי לִיתַּסְרוּ, קָא מַשְׁמַע לָן.

Rather, Rabbi Meir maintains that the phrase "It shall be perfect to be accepted" serves **to exclude disqualified consecrated** animals, to teach that **after their redemption,** when they become non-sacred, the prohibition against causing a blemish does not apply to them any longer. This exclusion is necessary, as it might **enter your mind to say** that **since** even after they have been redeemed and are non-sacred, just as it is **prohibited** to **shear** these animals **or** use them for **labor,** perhaps **let** it **also be prohibited** to cause **a blemish upon them.** Consequently, this verse **teaches us** that there is no prohibition against causing a blemish in these animals.

וְרַבָּנַן נַמִי, הָכְתִיב: ״כָּל מוּם לֹא יִהְיֶה בּוֹ״! לִגְזֵרָמָא הוּא דְּאָתֵי, דְּתַנְיָא: ״מוּם לֹא יִהְיֶה בּוֹ״ – אֵין לִי

The Gemara asks: **And** as for **the Rabbis as well,** who derive their opinion from the verse: "It shall be perfect to be accepted," **isn't it written: "There shall not be any blemish in it,"** which indicates an expansion of the prohibition against causing a blemish upon an offering? The Gemara answers: **That** verse **comes** to teach **that** the prohibition against causing a blemish extends also to a blemish caused as the result of **an indirect** action. **As it is taught** in a *baraita*: The verse states: "**There shall not be** any **blemish in it**" (Leviticus 22:21); from here **I have** derived

Perek **V**
Daf **34** Amud **a**

אֶלָּא שֶׁלֹּא יִתֵּן בּוֹ מוּם. מִנַּיִן שֶׁלֹּא יָבִיא דְּבֵילָה וּבָצֵק וְיַנִּיחֶנָּה עַל הָאוֹזֶן, כְּדֵי שֶׁיָּבֹא כֶּלֶב וְיֹאכְלֶנָּה? תַּלְמוּד לוֹמַר: ״כָּל מוּם״ – אֶחָד מוּם, וְאֶחָד כָּל מוּם.

only the prohibition **that one may not** directly **cause a blemish. From where** is it derived **that one may not bring** pressed **figs or dough**[H] **and place it on the** animal's **ear so that a dog will come and eat it,** thereby biting off part of the animal's ear and leaving it blemished? **The verse states:** "There shall not be **any blemish** in it" (Leviticus 22:21), indicating that the same prohibition applies **both** when the **blemish** is caused directly **and** when it is **any blemish,** even one caused indirectly.

HALAKHA

That one may not bring pressed figs or dough – שֶׁלֹּא יָבִיא דְּבֵילָה וּבָצֵק: Not only is it prohibited to cause a blemish on a firstborn offering, but it is also prohibited to cause a blemish indirectly. For instance, one may not place a pressed fig or dough on the ear of the firstborn offering in order to incite a dog to eat it, thereby mutilating the animal's ear in the process. Similarly, one may not ask of a gentile to cause a blemish upon a firstborn offering (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:8; *Shulḥan Arukh*, *Yoreh De'a* 313:1).

הָכָא בִּקְרָאֵי פְּלִיגִי, דְּאָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל, וְכֵן אָמַר רֵישׁ לָקִישׁ, וְכֵן אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אֲבוּהּ: ״וַאֲנִי הִנֵּה נָתַתִּי לְךָ אֶת מִשְׁמֶרֶת תְּרוּמֹתָי״,

After demonstrating that the *tanna'im* in the *baraita* discussing the firstborn offering disagree with regard to the exposition of certain verses, the Gemara clarifies that the *tanna'im* **here,** in the *baraita* discussing *teruma* whose status concerning impurity is uncertain, also **disagree with regard to** the exposition of **verses. As Rav Yehuda says** that **Shmuel says, and Reish Lakish likewise says, and Rav Naḥman likewise says** that **Rabba bar Avuh says:** It is stated in a verse addressed to Aaron and his sons: **"And I, behold, I have given you the charge of My *terumot* [*terumotai*]"** (Numbers 18:8), with "*terumotai*" written in plural.

רַבִּי אֱלִיעֶזֶר סָבַר: בִּשְׁתֵּי תְּרוּמוֹת הַכָּתוּב מְדַבֵּר, אַחַת תְּרוּמָה טְהוֹרָה וְאַחַת תְּרוּמָה תְּלוּיָה; וְאָמַר רַחֲמָנָא, עֲבִיד לָהּ שִׁימּוּר. וְרַבִּי יְהוֹשֻׁעַ – ״תְּרוּמָתִי״ כְּתִיב.

Rabbi Eliezer, who holds that the barrel of *teruma* must be safeguarded from ritual impurity, **holds that the verse is speaking of two *terumot*: Both *teruma* that is** definitely **ritually pure and *teruma* that is in abeyance,** i.e., *teruma* whose status with regard to impurity is uncertain. **And** based on the plural "My *terumot*," it is understood that **the Merciful One states: Make a protection for it,** i.e., safeguard even *teruma* whose status concerning impurity is uncertain. **And Rabbi Yehoshua,** who holds that one may expose to ritual impurity the *teruma* contents in the barrel, holds that the term *terumotai* is **written** so that it can be read as ***terumati,*** meaning: My *teruma*, in the singular. Therefore, the requirement to safeguard *teruma* applies only to that *teruma* whose status is definitely pure.

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BACKGROUND

The tradition is authoritative…the vocalization is authoritative – אִם לַמָּסוֹרֶת וְאִם לַמִּקְרָא: The written form of the Torah as it appears in Torah scrolls lacks vowels. All Hebrew letters are consonants, but several letters occasionally serve as *matres lectionis*, a term taken from Latin whose literal meaning is mothers of reading. When used in this manner, these letters, *alef*, *heh*, *vav*, and *yod*, are not pronounced at all but indicate the correct pronunciation of the words in which they appear. A word can thereby be written defective, without these additional letters, or plene, with them. Some Sages maintain that the tradition of the manner in which the verses in the Torah are written is authoritative, and one derives *halakhot* based on the spelling of the words. By contrast, others hold that the vocalization of the Torah is authoritative, meaning that one derives *halakhot* based on the pronunciation of the words, although it diverges from the spelling. This dispute applies only when the written and vocalized texts of the Torah are entirely different.

לְמֵימְרָא דְּרַבִּי אֱלִיעֶזֶר סָבַר יֵשׁ אֵם לַמִּקְרָא? וּרְמִינְהִי: ״בְּבִגְדוֹ בָהּ״ – כֵּיוָן שֶׁפֵּירַשׁ טַלִּיתוֹ עָלֶיהָ, שׁוּב אֵינוֹ רַשַּׁאי לְמוֹכְרָהּ. דִּבְרֵי רַבִּי עֲקִיבָא.

The Gemara asks: Is this **to say that Rabbi Eliezer holds** that **the vocalization** of the Torah **is authoritative,**[B] i.e., one derives *halakhot* based on the pronunciation of the words, although it diverges from the spelling? **And** the Gemara **raises a contradiction** from a *baraita* discussing a Hebrew maidservant's return to her father's house. The verse states, with regard to her master: "He shall have no power to sell her to a foreign people, **seeing that he has dealt deceitfully with her** [***bevigdo bah***]" (Exodus 21:8).[N] The term "*bevigdo*" shares a root with a word for garment, *beged*. Therefore, the verse indicates that **once** the master **has spread his garment over her,**[H] thereby designating her as his wife, if the maidservant is subsequently divorced or widowed, her father **may no longer sell her.** This is **the statement of Rabbi Akiva,** who maintains that the vocalization of the Torah is authoritative, and he interprets *bevigdo* as related to *bigdo*, his garment.

רַבִּי אֱלִיעֶזֶר אוֹמֵר: כֵּיוָן שֶׁבָּגַד בָּהּ, שׁוּב אֵינוֹ רַשַּׁאי לְמוֹכְרָהּ!

Rabbi Eliezer says: The word *bevigdo* is written without a *yod* and therefore is written in a manner that it can be read: *Bevagdo*. Accordingly, *bevigdo bah* means that **since** the father **dealt deceitfully** [***bagad***] **with her** by selling her once, **he may not sell her again.** Evidently, Rabbi Eliezer maintains that the manner in which the verses in the Torah are written is authoritative, and one derives *halakhot* based on the spelling of the words. This contradicts his derivation with regard to *teruma*, which is based on the pronunciation of the words.

אֶלָּא הָכָא בְּהָא קָמִיפַּלְגִי, רַבִּי יְהוֹשֻׁעַ סָבַר: הֲרָאוּיָה לְךָ – שְׁמוֹר, וְשֶׁאֵינָהּ רְאוּיָה לְךָ – לֹא תִּשְׁמוֹר. וְרַבִּי אֱלִיעֶזֶר – הָא נַמִּי רְאוּיָה הִיא, שֶׁמָּא יָבוֹא אֵלְיָהוּ וִיטַהֲרֶנָּה.

Rather, here, the *tanna'im* **disagree with regard to this:** The verse states: "And I, behold, I have given you the charge of My *terumot*" (Numbers 18:8). **Rabbi Yehoshua holds** that the term "you" teaches that only *teruma* **that is fit for you** to eat, i.e., *teruma* that is definitely ritually pure, you must **safeguard. But** *teruma* **that is not fit for you,** i.e., *teruma* whose status with regard to impurity is uncertain, **you** do **not** need to **safeguard. And Rabbi Eliezer** holds that **this** *teruma*, whose status with regard to impurity is uncertain, is **also** considered **fit** for you, because **perhaps Elijah will come and deem it ritually pure.**

אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי שִׁמְעוֹן. מַתְקִיף לָהּ רַב נַחְמָן בַּר יִצְחָק: הֵי רַבִּי שִׁמְעוֹן? אִילֵימָא רַבִּי שִׁמְעוֹן דְּמַתְנִיתִין – עַד הָשְׁתָּא לָא אַשְׁמַעִינַן שְׁמוּאֵל דָּבָר שֶׁאֵין מִתְכַּוֵּין מוּתָּר?

§ The Gemara again discusses letting the blood of a firstborn offering. **Rav Yehuda says** that **Shmuel says:** The ***halakha*** is **in accordance with** the opinion of **Rabbi Shimon. Rav Naḥman bar Yitzḥak objects to this:** To **which** opinion of **Rabbi Shimon** is Shmuel referring? **If we say** he is referring to the opinion of **Rabbi Shimon in the mishna,** that the blood may be let despite the resulting blemish, because the purpose of the treatment is solely medical, that cannot be correct. After all, **hasn't Shmuel taught us until now** that **an unintentional act,**[H] i.e., a permitted action from which a prohibited result inadvertently ensues, is **permitted?**

NOTES

Seeing that he has dealt deceitfully with her [*bevigdo bah*] – בְּבִגְדוֹ בָהּ: There are two basic interpretations of this discussion. Rashi claims that the *tanna'im* disagree with regard to the meaning of the term *bevigdo*, i.e., whether it is referring to a garment or to betrayal. Alternatively, the dispute is based on the meaning of an earlier word in the verse: "Who did not [*lo*] designate her" (Exodus 21:8). This *lo* is written with the letter *alef*, according to which it means: Not. Accordingly, the verse is saying that she has not been designated and there has been no marriage, i.e., she has only been sold as a maidservant. Nevertheless, he cannot sell her as a maidservant again, as claimed by Rabbi Eliezer. The word *lo* is read as though it were written with a *vav*, in which case it means: Who has designated her to himself [*lo*], which indicates that the father cannot sell her again after marriage. One difficulty with this interpretation is that the *baraita* presents the dispute as focusing on the word *bevigdo*, not *lo*. Nevertheless, it is possible that the alternative readings of *lo* affect the explanation of *bevigdo*: If the Torah means that he has not designated her, then the word *bevigdo* suggests betrayal, whereas if it is saying that he has designated her to him, the term is referring to a garment (see *Tosafot* and Ritva on *Kiddushin* 18a).

HALAKHA

Once the master has spread his garment over her – שֶׁפֵּירַשׁ טַלִּיתוֹ עָלֶיהָ: In a case where one betroths his daughter to someone when she is still a minor, and she subsequently becomes widowed or is divorced, he is not allowed to sell her as a maidservant. This follows the principal that one may not sell his daughter into slavery after marriage, in accordance with the opinion of Rabbi Akiva (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 4:13).

An unintentional act – דָּבָר שֶׁאֵין מִתְכַּוֵּין: If a permitted action on Shabbat may or may not cause a prohibited result, one may perform the action provided that he does not have intention to cause the prohibited result, in accordance with the opinion of Rabbi Shimon (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 1:5; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 337:1).

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וְהָא רַבִּי חִיָּיא בַּר אַשִׁי אָמַר רַב: הֲלָכָה כְּרַבִּי יְהוּדָה, וְרַב חָנִין בַּר אַשִׁי אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי שִׁמְעוֹן. וְרַב חִיָּיא בַּר אָבִין מַתְנֵי בְּלָא גַּבְרֵי; רַב אָמַר: הֲלָכָה כְּרַבִּי יְהוּדָה, וּשְׁמוּאֵל אָמַר: הֲלָכָה כְּרַבִּי שִׁמְעוֹן!

But doesn't Rav Ḥiyya bar Ashi say that **Rav says:** The ***halakha*** **is in accordance with** the opinion of **Rabbi Yehuda,** who maintains that an unintentional act is prohibited, **and Rav Ḥanin bar Ashi says** that **Shmuel** says: The ***halakha*** **is in accordance with** the opinion of **Rabbi Shimon,** that an unintentional act is permitted. **And Rav Ḥiyya bar Avin teaches** these rulings directly, **without** citing additional **men** in their transmission. He simply states that **Rav says** that the ***halakha*** **is in accordance with** the opinion of **Rabbi Yehuda, and Shmuel says** that the ***halakha*** **is in accordance with** the opinion of **Rabbi Shimon.** Evidently, Shmuel could not be referring to the opinion of Rabbi Shimon in the mishna, as if so, he would be repeating himself.

אֶלָּא רַבִּי שִׁמְעוֹן דְּבָרֵייתָא. וְרַב שֵׁישָׁא בְּרֵיהּ דְּרַב אִידִי מַתְנֵי לָהּ בְּהָדְיָא: אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי שִׁמְעוֹן דְּבָרֵייתָא.

The Gemara answers: **Rather,** Shmuel is referring to the opinion of **Rabbi Shimon in the *baraita*** (33b), that not only may one let the blood of the dying firstborn animal despite the resulting blemish, but it is even permitted to eat the animal's meat on account of the blemish. **And** the Gemara notes that **Rav Sheisha, son of Rav Idi, teaches this explicitly: Rav Yehuda says** that **Shmuel says:** The ***halakha*** **is in accordance with** the opinion of **Rabbi Shimon** as stated **in the *baraita*.**

מתני׳ הַצּוֹרֵם אוֹזֶן בִּבְכוֹר – הֲרֵי זֶה לֹא יִשְׁחוֹט עוֹלָמִית, דִּבְרֵי רַבִּי אֱלִיעֶזֶר. וַחֲכָמִים אוֹמְרִים: נוֹלַד בּוֹ מוּם אַחֵר – יִשְׁחוֹט עָלָיו.

MISHNA In the case of **one who slits** [***hatzorem***][L] **the ear of a firstborn** offering,[H] **that** person **may never slaughter** that animal. This is **the statement of Rabbi Eliezer. And the Rabbis say:** If **another blemish** later **develops in** the firstborn, **he may slaughter** the animal **on** account of that second blemish.

גמ׳ וּמִי קָנֵיס רַבִּי אֱלִיעֶזֶר לְעוֹלָם? וּרְמִינְהִי: מִי שֶׁהָיְתָה לוֹ בַּהֶרֶת

GEMARA The Gemara asks: **But does Rabbi Eliezer penalize** for a transgression **forever? And** the Gemara **raises a contradiction** from a mishna (*Nega'im* 7:5): In the case of **one who had a snow-white leprous mark** [***baheret***][B] on his body,

LANGUAGE

Slits [*tzorem*] – **צוֹרֵם:** This Hebrew verb, found in rabbinic literature but not in the Bible, refers to the act of injuring the ear or the act of pulling the ear. This root bears a similar meaning in Aramaic, in which it means slitting the ear.

HALAKHA

One who slits the ear of a firstborn offering – **הַצּוֹרֵם אוֹזֶן בִּבְכוֹר:** It is prohibited to cause a blemish on a firstborn offering, whether directly or indirectly. Either way, it is forbidden to slaughter the animal and eat its meat on account of the blemish; one may slaughter it only when a different blemish develops. This ruling is in accordance with the opinion of the Rabbis (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:7; *Shulḥan Arukh*, *Yoreh De'a* 313:1).

BACKGROUND

Snow-white leprous mark – **בַּהֶרֶת:** The *halakhot* of leprous marks appear in the Torah (Leviticus, chapter 13) and are elaborated upon in the mishna in tractate *Nega'im*. In brief, one who develops a bright white mark on his or her body must be examined by a priest, who will quarantine the person for seven days, after which he will reexamine the mark to see if it has spread. If the hair on the mark has turned white, he is immediately pronounced a confirmed leper. If the marks spread and cover the leper's entire body, he will be declared ritually pure.

Perek **V**
Daf **34** Amud **b**

וְנִקְּצָצָה – טָהוֹר. קְצָצָהּ מִתְכַּוֵּין, רַבִּי אֱלִיעֶזֶר אוֹמֵר: לִכְשֶׁיִּוָּלֵד לוֹ נֶגַע אַחֵר יִטְהַר הֵימֶנּוּ.

and it inadvertently **got excised,**[H] that individual is **ritually pure.** If **he excised it intentionally,**[N] in an attempt to render himself ritually pure, the Sages impose a punitive impurity upon him. The *tanna'im* disagree with regard to the extent of the penalty: **Rabbi Eliezer says: When he will develop another leprous mark,** his status of ritual purity is assessed based on this new mark. When that mark is ruled ritually pure, **he will become ritually pure from** the ritual impurity generated by the mark he excised.

NOTES

If he excised it intentionally – **קְצָצָהּ מִתְכַּוֵּין:** This action constitutes a Torah prohibition, as the verse states: "Take heed in the mark of leprosy" (Deuteronomy 24:8). The term "take heed" is interpreted as indicative of a negative mitzva. Nevertheless, by Torah law the mark is no longer impure.

HALAKHA

One who had a snow-white leprous mark and it got excised – **הָיְתָה לוֹ בַּהֶרֶת וְנִקְּצָצָה:** If the snow-white leprous mark on one's body was inadvertently excised entirely, he is ritually pure. In a case where he removed it intentionally, if he removed the slightest layer of healthy skin from all around the mark, he can never become purified. If he removed the leprous mark without any of the surrounding flesh, he is ritually impure until the mark spreads over his entire body (Rambam *Sefer Tahara*, *Hilkhot Tumat Tzara'at* 10:3).

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BACKGROUND

Split bean – גְּרִיס: The Sages interpreted this measure as referring to the area of a split Cilician bean, known today as the broad bean or fava bean. Beans were often split in two along their seams in preparation for cooking. A split bean was a convenient measure for a small area, such as that of a mark or a stain, since the interior side was smooth and could be laid down flat on the skin or a piece of cloth. Among contemporary halakhic authorities, the area of a broad bean is held to be equal to that of a circle between 19 and 21 mm in diameter.



Broad beans

וַחֲכָמִים אוֹמְרִים: עַד שֶׁתִּתְפַּרֵּחַ בְּכוּלּוֹ, אוֹ עַד שֶׁתִּתְמַעֵט בַּהַרְתּוֹ מִכִּגְרִיס!

And the Rabbis say: The development of a new leprous mark is insufficient. Rather, he must wait either **until** the leprosy of the new mark **spreads over his entire** body, a sign of ritual purity (see Leviticus 13:12), **or unless his** old ***baheret*** had **shrunk** to a size **smaller than** that **of a split bean**[BN] before he excised it. Otherwise, he remains ritually impure. In any event, it is clear from this mishna that Rabbi Eliezer does not impose an indefinite penalty on one who transgresses. If so, why does he impose an indefinite penalty in the mishna discussing one who causes a blemish on the ear of a firstborn offering?

רַבָּה וְרַב יוֹסֵף דְּאָמְרִי תַּרְוַויְיהוּ: כִּי קָנֵיס רַבִּי אֱלִיעֶזֶר – בְּמָמוֹנוֹ, בְּגוּפוֹ לָא קָנֵיס;

Rabba and Rav Yosef both say, in answer to this question, that **when Rabbi Eliezer penalizes** one who transgresses, that is only **in** a case which involves **his property,** e.g., a firstborn offering. But **in** a case which affects **his body,** e.g., leprosy, **he does not penalize** him to such an extent.

מָמוֹנוֹ – אִיכָּא לְמֵימַר דְּאָתֵי לְמֶיעֱבַד, גּוּפוֹ – מִי אִיכָּא לְמֵימַר דְּאָתֵי לְמֶיעֱבַד?

The Gemara elaborates: With regard to **his property,** i.e., the firstborn offering, if he would not be penalized indefinitely, **there is** reason **to say that he might come to perform** an action which would cause a blemish. Since the firstborn offering is anyway prohibited for personal use until it is blemished, he suffers no risk in blemishing it. A greater deterrent than usual is therefore needed to prevent such action. By contrast, in the case of leprosy on **his body, is there** a basis **to say that he will come to perform** an action and remove the white spot? In this case, the limited penalty of having to wait for purification from another leprous mark serves as a sufficient deterrent, as there is no guarantee that another mark will ever appear.

אָמַר רָבָא: דְּרַבִּי אֱלִיעֶזֶר אַדְּרַבִּי אֱלִיעֶזֶר קַשְׁיָא, דְּרַבָּנַן אַדְּרַבָּנַן לָא קַשְׁיָא?

Rava said: Is this to say that the statement **of Rabbi Eliezer** in the mishna here is **difficult in light of** the other statement **of Rabbi Eliezer** in the mishna in *Nega'im*, whereas the statement **of the Rabbis** in the mishna is **not difficult in light of** the other statement **of the Rabbis** in *Nega'im*? In the mishna here, the Rabbis impose a limited penalty on the transgressor, whereas in the mishna in *Nega'im* they impose an indefinite one. This contradiction also requires resolution.

אֶלָּא, דְּרַבִּי אֱלִיעֶזֶר אַדְּרַבִּי אֱלִיעֶזֶר לָא קַשְׁיָא – כִּדְשַׁנִּינַן. רַבָּנַן אַדְּרַבָּנַן נַמִּי לָא קַשְׁיָא, הָכָא בְּמַאי דַּעֲבַד קָנְסוּהּ, הָכָא בְּמַאי דַּעֲבַד קָנְסוּהּ;

Rather, say: The statement **of Rabbi Eliezer** in the mishna here is **not difficult in light of** the statement **of Rabbi Eliezer** in *Nega'im*, **as we answered.** Likewise, the statement **of the Rabbis** in the mishna is **not difficult in light of** the statement **of the Rabbis** in *Nega'im*, as both rulings follow the same logic. **Here,** the Rabbis **penalized him for what he did, and there,** the Rabbis **penalized him for what he did.**

בְּמַאי אִיכַּוֵּין, לְמִישְׁרֵייהּ – בְּהַאי מוּמָא, בְּהַאי מוּמָא קָנְסוּהּ רַבָּנַן, דִּבְהַאי מוּמָא לָא לִישְׁתְּרֵי לֵיהּ. וְהָכָא בְּמַאי דַּעֲבַד קָנְסוּהּ, אִיכַּוֵּין לְטַהוּרֵי נַפְשֵׁיהּ בְּהַאי קְצִיצָה – בְּהַאי קְצִיצָה קָנְסוּהּ רַבָּנַן.

The Gemara elaborates: In the case of causing a blemish in a firstborn offering, **by what** means **did he intend to permit it? By means of this blemish.** Therefore, **the Rabbis penalized him** only **with regard to this blemish,** i.e., **that** the animal **will not become permitted to him by means of this blemish** that he himself caused. The firstborn offering retains its status as unblemished and will become permitted only if it develops another blemish. **And** similarly, **here,** with regard to the removal of the leprous mark, the Rabbis **penalize him for what he did. He intended to render himself ritually pure by means of this** act of **excising** the mark. Therefore, **the Rabbis penalized him with regard to this** act of **excision.** It is considered as though he did not excise the mark, and as a result, he remains impure permanently.

NOTES

Or unless his *baheret* had shrunk to a size smaller than that of a split bean – אוֹ עַד שֶׁתִּתְמַעֵט בַּהַרְתּוֹ מִכִּגְרִיס: Taken at face value, this statement is problematic, as the individual already excised the leprous mark. If so, how can it diminish in size? Rashi explains that this phrase is referring to the state of the leprous mark prior to its removal. If it was so small at the time, the Sages did not impose punitive impurity upon the individual. But in any instance where an individual excised an impure leprous mark, he can never be rendered pure of that impurity, unless a new leprous mark spreads over his entire body.

It is also possible that the Gemara is alluding to the impossibility of this individual's purification, as it is clear that the mark he has removed can no longer shrink. Finally, some commentaries claim this statement does not appear in the correct text of the mishna. Rather, it was mistakenly added here due to the similarity with the preceding mishna, which discusses one who removes ritually impure signs in the leprous mark, i.e., a white hair or a unaffected skin, but not the removal of the mark itself (Rabbi Shimshon of Saens).

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בָּעֵי רַב פַּפָּא: ״יִטְהַר״ תְּנַן, אוֹ ״וְיִטְהַר״ תְּנַן?

§ The Gemara analyzes Rabbi Eliezer's statement: When he will develop another leprous mark, he will become ritually pure [*yit'har*] from the first. **Rav Pappa asks:** What is the correct version of Rabbi Eliezer's statement? **Did we learn: *Yit'har*, or did we learn: *Veyit'har*,** and he will become ritually pure? *Yit'har* indicates that he will immediately be rendered ritually pure from the first leprous mark upon the appearance of the second mark. *Veyit'har*, by contrast, indicates that the punitive ritual impurity by rabbinic law imparted by the first mark remains until the second mark is deemed ritually pure.

לְמַאי נָפְקָא מִינָּה – לְחָתָן שֶׁנִּרְאָה בּוֹ נֶגַע.

The Gemara asks: **What is the** practical **difference** between the two versions? After all, he is in any case ritually impure due to the second mark until that mark is deemed pure. The Gemara explains that there is a difference in the case **of a bridegroom** who had removed a leprous mark **upon whom** a new **leprous mark appeared** during the seven days of his wedding celebrations.

דְּתְנַן: חָתָן שֶׁנִּרְאָה בּוֹ נֶגַע – נוֹתְנִין לוֹ שִׁבְעָה יָמִים לוֹ וּלְאֻצְטְלִיתוֹ וְלִכְסוּתוֹ, וְכֵן בָּרֶגֶל – נוֹתְנִין לוֹ כָּל יְמֵי הָרֶגֶל.

As we learned in a mishna (*Nega'im* 3:2): In the case of **a bridegroom upon whom a leprous mark appeared,** the court **grants him seven days** of his wedding celebrations before the mark is examined by a priest. This grace period is granted to him whether the mark appeared **on him,** i.e., his body, **or on his cloak, or on** any other **garment of his. And similarly,** with regard to any individual upon whom a leprous mark appeared **during a pilgrimage Festival,**[H] the court **grants him all the days of the pilgrimage Festival** as a grace period, during which the mark is not examined by a priest.

אִי אָמְרַתְּ ״יִטְהַר״ תְּנַן – מַקַּמַּיְיתָא טָהֵר לֵיהּ, לְבַתְרַיְיתָא נָטְרִין לֵיהּ שִׁבְעָה יְמֵי מִשְׁתֶּה.

The Gemara continues: **If you say** that **we learned** that the correct reading of Rabbi Eliezer's statement is ***yit'har,*** i.e., the individual is rendered ritually pure upon the development of the new mark, this means that he is ritually pure during the seven-day period, as **he has** already **become ritually pure** of the punitive impurity **from the first** mark. As **for the latter** mark, **we wait the seven days of feasting for him,** before the mark is examined by a priest. He is therefore ritually pure in all regards.

אֶלָּא אִי אָמְרַתְּ ״וְיִטְהַר״ תְּנַן, סוֹף סוֹף כִּי לָא מִטַּמְּיָא לְבַתְרַיְיתָא, הָא מִיטַּמָּא וְקָאֵי מַקַּמַּיְיתָא. מַאי? תֵּיקוּ.

But if you say that **we learned** that the correct reading of Rabbi Eliezer's statement is ***veyit'har,*** and the punitive impurity of the first mark remains intact until the ritual purity of the second mark has been confirmed, the grace period has no effect. The reason is that **ultimately,** even if the individual **does not** yet **contract ritual impurity from the latter** mark, **he remains ritually impure on** account of **the first** mark until the purification of the latter mark. The Gemara asks: **What** is the resolution to Rav Pappa's query? Since there is no clear resolution, the Gemara concludes that the dilemma **shall stand** unresolved.

בָּעֵי מִינֵּיהּ רַבִּי יִרְמְיָה מֵרַבִּי זֵירָא: צוֹרֵם אוֹזֶן בִּבְכוֹר, וּמֵת, מַהוּ לְקָנוֹס בְּנוֹ אַחֲרָיו?

§ The mishna teaches that one who slits the ear of a firstborn offering is prohibited indefinitely from slaughtering the animal on account of that blemish. **Rabbi Yirmeya raises a dilemma before Rabbi Zeira:** In the case of **one who slits the ear of a firstborn** offering **and** subsequently **dies,**[H] **what is** the *halakha* **with regard to penalizing his son after** the father's death? Does the penalty prohibiting consumption of the firstborn offering extend to the son?

HALAKHA

A bridegroom upon whom a leprous mark appeared…similarly during a pilgrimage Festival – חָתָן שֶׁנִּרְאָה בּוֹ נֶגַע...וְכֵן בָּרֶגֶל: A bridegroom upon whom a leprous mark appeared is not required to have the mark examined by a priest during the seven days of his wedding celebrations. The same applies if the mark appeared on his garments or house. Likewise, any individual upon whom a leprous mark appeared during a Festival is not required to have the mark examined by a priest throughout the entire Festival, lest he be rendered ritually impure and his Festival become like a day of mourning (Rambam *Sefer Zemanim*, *Hilkhot Yom Tov* 7:16 and *Sefer Tahara*, *Hilkhot Tumat Tzara'at* 9:8).

One who slits the ear of a firstborn offering and dies – צוֹרֵם אוֹזֶן בִּבְכוֹר וּמֵת: If one causes a blemish in a firstborn offering, it may not be slaughtered on account of that blemish. Rather, he must wait until another blemish develops, at which point he can slaughter the animal on account of the new blemish. If the individual who caused the blemish dies, this penalty does not extend to his children, and the animal may be slaughtered on account of the first blemish (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:7; *Shulḥan Arukh*, *Yoreh De'a* 313:1).

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NOTES

Whose thorns were removed – שֶׁנִּתְקַוְּצָה: Rashi explains that this refers to gathering detached thorns. Accordingly, although this act is prohibited by rabbinic law, the Sages did not penalize one who performed this act as severely as they would penalize one who improved the field with fertilizer, as the act of gathering thorns is not considered significant. According to the Sages of Eretz Yisrael, cited in the Jerusalem Talmud, this term actually refers to the act of plowing. According to this opinion, although this act is significant by Torah law, nevertheless, the Sages did not penalize the transgressor. The commentaries explain, according to this opinion, that since the action mentioned here refers specifically to the initial act of plowing whose purpose is to kill the thorns, and not to prepare the field to be tilled at the conclusion of the Sabbatical Year, the penalty is not imposed (Rosh).

אִם תֵּימְצֵי לוֹמַר: מוֹכֵר עַבְדּוֹ לְגוֹיִם וּמֵת קָנְסוּ בְּנוֹ אַחֲרָיו – דְּכָל יוֹמָא וְיוֹמָא מַפְקַע לֵיהּ מִמִּצְוֹת.

The Gemara compares this dilemma to two similar cases. **If you say** the *halakha* should be derived from the case of **one who sells his** Canaanite **slave to gentiles and** the seller subsequently **dies,**[H] where the Sages **penalized his son after** the father's death and required him to redeem the slave, this is not a direct parallel. The Gemara explains: It is possible that the penalty is extended to the son only there, **as each day** that the slave is in the servitude of the gentile master, that master **prevents** the slave **from** performing **mitzvot.** A Canaanite slave is obligated to perform the same mitzvot as a Jewish woman, and he is unable to fulfill the mitzvot when in the possession of a gentile. Since this reason does not apply in a case of a firstborn offering, the case of the Canaanite slave cannot be cited as a source to resolve this dilemma.

אִם תֵּימְצֵי לוֹמַר: כְּוִין מְלַאכְתּוֹ בְּמוֹעֵד וּמֵת לֹא קָנְסוּ בְּנוֹ אַחֲרָיו – מִשּׁוּם דְּלָא עָבְדָא לְאִיסּוּרָא.

And **if you say** the *halakha* should be derived from the case of **one who planned** from the outset to perform **his labor on the** intermediate days of **a Festival,**[H] by placing himself in a situation in which the labor should in theory be permitted, i.e., that a significant monetary loss would otherwise be incurred, that comparison is also inaccurate. The Gemara elaborates: In such a case the Sages penalized him by deeming it prohibited for him to perform the labor and by removing his rights to any of the finished products, but if **he died** before the start of the Festival, **they did not penalize his son after** the father's death. This case is not a direct parallel either, as it is possible that it is only there that the penalty is not extended to the son, **since** the father **did not** yet **perform a prohibited act,** as he did not carry out any action on the Festival before he died.

הָכָא מַאי? לְדִידֵיהּ קָנְסוּ רַבָּנַן – וְהָא לֵיתֵיהּ, אוֹ דִלְמָא לְמָמוֹנֵיהּ קָנְסוּ רַבָּנַן – וְהָא אִיתֵיהּ?

If so, **here,** in the case of mutilating the ear of a firstborn offering, **what** is the *halakha*? Should one say that **the Sages penalized** only **him,** i.e., the father, **and he is no longer** alive? **Or perhaps the Sages imposed** the **penalty upon his property,** i.e., that no benefit may be derived from the animal, **and that** animal still **exists** in the possession of his heirs.

אֲמַר לֵיהּ, תְּנֵיתוּהָ: שָׂדֶה שֶׁנִּתְקַוְּצָה בַּשְּׁבִיעִית – תִּזָּרַע לְמוֹצָאֵי שְׁבִיעִית; נִיטַּיְּבָה, נִידַּיְּרָה – לֹא תִּזָּרַע לְמוֹצָאֵי שְׁבִיעִית. וְאָמַר רַב אַסִי בְּרַבִּי חֲנִינָא: גָּקְטִינַן, הֵטִיבָהּ וּמֵת – בְּנוֹ זוֹרֵעַ. אַלְמָא: לְדִידֵיהּ קָנְסוּ רַבָּנַן, לִבְרֵיהּ לָא קָנְסוּ רַבָּנַן.

Rabbi Zeira **said to** Rabbi Yirmeya: **You learned** the resolution to your dilemma in a mishna (*Shevi'it* 4:2). **A field whose thorns were removed**[N] **during the Sabbatical** Year[H] **may be sown at the conclusion of the Sabbatical** Year, as removing thorns is not full-fledged labor that renders the field prohibited. But if **it had been improved** with fertilizer, or if **it had been enclosed**[H] so that the animals inside would fertilize it with their manure, **it may not be sown at the conclusion of the Sabbatical** Year, as both these acts cause significant improvements to the field. The Sages imposed a penalty that one may not derive benefit from prohibited labor. **And Rav Asi, son of Rabbi Ḥanina, says: We have a tradition** that if one **improved** his field in a prohibited manner **and** then **died, his son may sow it. Apparently, the Sages penalized** only **him,** i.e., the father, but **the Sages did not penalize his son.**

אָמַר אַבָּיֵי: גָּקְטִינַן,

Abaye says: We have a tradition

HALAKHA

One sells his slave to gentiles and dies – מוֹכֵר עַבְדּוֹ לְגוֹיִם וּמֵת: If one sells his Canaanite slave to a gentile, even to one who resides in Eretz Yisrael and observes the seven Noahide mitzvot, the slave is emancipated. The court forces his original master to redeem him from the gentile, even if he must pay ten times the original price. If the seller dies, this penalty does not extend to his children (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 8:1; *Shulḥan Arukh*, *Yoreh De'a* 267:80).

One who planned to perform his labor on the intermediate days of a Festival – כְּוִין מְלַאכְתּוֹ בְּמוֹעֵד וּמֵת: If one planned out his labor so that it would be necessary for him to work during the intermediate days of the Festival, he is penalized and the court declares the finished products of his labor to be ownerless. If he died, this penalty is not imposed upon his children, and they may even perform the labor on the intermediate days of the Festival to avoid a significant monetary loss (Rambam *Sefer Zemanim*, *Hilkhot Yom Tov* 7:4; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 538:6).

A field whose thorns were removed during the Sabbatical Year – שָׂדֶה שֶׁנִּתְקַוְּצָה בַּשְּׁבִיעִית: It is prohibited to remove thorns from one's field during the Sabbatical Year in order to prepare it for the following year. If one did so, or if he removed rocks from the field, an action which is also prohibited, the Sages did not penalize him, and he may sow it at the conclusion of the Sabbatical Year (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 1:14).

Improved…enclosed – נִיטַּיְּבָה...נִידַּיְּרָה: One who plows his field or fertilizes it during the Sabbatical Year in order to prepare it for the next year is penalized in that he may not sow it in the following year. If he dies, it is permitted for his children to sow it (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 1:13).

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טִימֵּא טָהֳרוֹת וּמֵת – לֹא קָנְסוּ בְּנוֹ אַחֲרָיו, מַאי טַעֲמָא? הֵיזֵק שֶׁאֵינוֹ נִיכָּר – לָא שְׁמֵיהּ הֵיזֵק, קְנָסָא דְּרַבָּנַן; לְדִידֵיהּ – קָנְסוּ רַבָּנַן, לִבְרֵיהּ – לָא קָנְסוּ רַבָּנַן.

that if **one rendered impure** the **ritually pure items** of another **and died**[H] before paying, the Sages **did not penalize his son after his** death and require him to pay for the damage. **What is the reason** for this? The reason is that **damage that is not evident,** i.e., which does not involve any visible change, **is not considered damage** by Torah law. There is **a penalty** imposed **by rabbinic law,** as the injured party suffered a loss, but **the Sages penalized** only **him; the Sages did not penalize his son.**

מתני׳ מַעֲשֶׂה בְּזָכָר שֶׁל רְחֵלִים זָקֵן וּשְׁעָרוֹ מְדוּלְדָּל, וְרָאָהוּ קַסְטוֹר אֶחָד, וְאָמַר: מַה טִיבוֹ שֶׁל זֶה? אָמְרוּ לוֹ: בְּכוֹר הוּא, וְאֵינוֹ נִשְׁחָט אֶלָּא אִם כֵּן הָיָה בּוֹ מוּם. נָטַל פִּיגּוֹם וְצָרַם אָזְנוֹ, וּבָא מַעֲשֶׂה לִפְנֵי חֲכָמִים, וְהִתִּירוּ. וְאַחַר שֶׁהִתִּירוּ, הָלַךְ וְצֵירֵם בְּאָזְנֵי בְּכוֹרוֹת אֲחֵרִים, וְאָסְרוּ.

MISHNA There was **an incident involving an old ram**[H] **whose hair was** long and **dangling,** because it was a firstborn offering. **And one** Roman **quaestor** [*kastor*][L] **saw it and said** to its owner: **What is the status** [*tivo*][L] **of this** animal that you allowed it to grow old and you did not slaughter it? **They said to him:** It **is a firstborn** offering, **and** therefore **it may be slaughtered only if it has a blemish.** The quaestor **took a dagger** [*pigom*][L] **and slit its ear. And the incident came before** the **Sages** for a ruling, **and they deemed** its slaughter **permitted.**[N] **And after** the Sages **deemed** its slaughter **permitted,** the quaestor **went and slit the ears of other firstborn** offerings, **but** in these cases the Sages **deemed** their slaughter **prohibited,** despite the fact that they were now blemished.

פַּעַם אַחַת הָיוּ תִּינוֹקוֹת מְשַׂחֲקִין בַּשָּׂדֶה, וְקָשְׁרוּ זְנְבֵי טְלָאִים זֶה בָּזֶה, וְנִפְסְקָה זְנָבוֹ שֶׁל אֶחָד מֵהֶם, וְהָרֵי הוּא בְּכוֹר, וּבָא מַעֲשֶׂה לִפְנֵי חֲכָמִים, וְהִתִּירוּ. רָאוּ שֶׁהִתִּירוּ, הָלְכוּ וְקָשְׁרוּ זְנְבוֹת בְּכוֹרוֹת אֲחֵרִים, וְאָסְרוּ. זֶה הַכְּלָל: כָּל שֶׁהוּא לְדַעְתּוֹ – אָסוּר, שֶׁלֹּא לְדַעְתּוֹ – מוּתָּר.

One time children were playing in the field and they tied the tails of lambs to each other, and the tail of one of them was severed, and it was a firstborn offering. **And the incident came before the Sages** for a ruling **and they deemed** its slaughter **permitted.** The people who **saw that they deemed** its slaughter **permitted went and tied the tails of other firstborn** offerings, **and** the Sages **deemed** their slaughter **prohibited. This** is **the principle:** With regard to **any** blemish **that is** caused **intentionally,** the animal's slaughter is **prohibited;** if the blemish is caused **unintentionally,** the animal's slaughter is **permitted.**

LANGUAGE

Quaestor [*kastor*] – **קַסְטוֹר:** A Latin term referring to the rank of a Roman official who was authorized to conduct criminal investigations.

Status [*tiv*] – **טִיב:** The early commentaries discuss the precise meaning of this term. According to the Rambam, it means reason, while others say that it means a matter, or occupation.

Dagger [*pigom*] – **פִּיגּוֹם:** From the Latin pugio, meaning a double-edged knife.



Roman pugio and scabbard

HALAKHA

If one rendered impure ritually pure items and died – טִימֵּא טָהֳרוֹת וּמֵת: By Torah law, one who damages another's property in a manner that is not apparent, i.e., there is no physical change visible to the eye, is exempt from remunerating the victim. Nevertheless, the Sages penalized him, in order to prevent people from rendering impure the ritually pure items of another. The Sages did not extend this penalty to his heirs in the event of his death, and they are not required to pay for the damage (Rambam *Sefer Nezikin*, *Hilkhot Ḥovel UMazik* 7:1–3; *Shulḥan Arukh*, *Ḥoshen Mishpat* 385:1).

An incident involving an old ram – מַעֲשֶׂה בְּזָכָר שֶׁל רְחֵלִים: It is prohibited to cause a blemish on a firstborn offering. It is likewise prohibited to instruct a gentile to cause a blemish. In a case where a gentile or a child caused a blemish of his own volition, if they did not intend to render the animal fit for slaughter by means of the blemish, the animal is permitted. If their intention was to render it fit for slaughter, e.g., if they continued blemishing other animals, it is prohibited to slaughter it. The *halakha* is to be lenient in a case where his intentions are unclear (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:8; *Shulḥan Arukh*, *Yoreh De'a* 313:1–3, and in the comment of Rema).

NOTES

The quaestor took a dagger and slit its ear…and they deemed it permitted – נָטַל פִּיגּוֹם וְצָרַם אָזְנוֹ…וְהִתִּירוּ: There are two basic interpretations of the reason behind the Sages' decision to permit the slaughter of this firstborn offering; see *Kodshei David* for an in-depth analysis. According to Rashi, although the quaestor intentionally caused the blemish in the first firstborn offering, he did not mean to render it fit for slaughter. The reason is that the response he heard: Only if it has a blemish, refers specifically to a blemish that occurred naturally, not one caused purposely. His action is therefore considered merely as an act of denigration of the Jewish tradition, and consequently the animal is permitted for slaughter. By contrast, the quaestor's continued acts of blemishing are clearly intended to render the firstborn offering permitted for slaughter as a result of the blemishes, and it is for this reason that the Sages prohibited the slaughter of these animals.

Others maintain that the quaestor initially did intend for his action to render the firstborn offering fit for slaughter, and the Sages permitted its slaughter because the quaestor was acting of his own volition, not at the bidding of the Jew. Once the quaestor continued causing blemishes in other firstborn offerings, it is considered as though he were acting at the Jew's behest. This is similar to the prohibition against telling a gentile to perform a forbidden action on Shabbat (Rabbeinu Gershom Meor HaGola; Rambam's Commentary on the Mishna, but see Rambam in *Mishne Torah*).

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גמ׳ ״פַּעַם אַחַת הָיָה״ כו׳. וּצְרִיכָא, דְּאִי אַשְׁמַעִינַן גּוֹי – דְּלָא אָתֵי לְמִיסְרַךְ, אֲבָל קָטָן דְּאָתֵי לְמִיסְרַךְ – אֵימָא לָא.

GEMARA The mishna mentions that **one time** children **were** involved in a case in which they unintentionally blemished a firstborn offering whose subsequent slaughter the Sages deemed permitted. The Gemara notes: **And** although the first clause of the mishna mentions a similar occurrence, the incident involving the children is **necessary. As, had** the *tanna* **taught us** only the incident involving the **gentile,** it might have been thought that the Sages permitted the slaughter of the firstborn offering only there, **as** it is **not** a problem if the gentile **will acquire the habit** of causing blemishes, because that prohibition does not apply to gentiles. **But** with regard to a Jewish **minor,** it is a concern **that he** is likely **to acquire the habit** of causing blemishes in firstborn offerings, and therefore one might **say** that even the first, unintentional time should **not** be permitted.

וְאִי אַשְׁמְעִינַן קָטָן – מִשּׁוּם דְּלָא אָתֵי לְאִיחְלוּפֵי בְּגָדוֹל, אֲבָל גּוֹי דְּאָתֵי לְאִיחְלוּפֵי בְּגָדוֹל – אֵימָא לָא, צְרִיכָא.

And had the *tanna* **taught us** only the incident involving **a minor,** it might have been thought that the Sages deemed the firstborn offering permitted only there, **since** there is **no** concern that people **will come to confuse** a minor **with an adult.** People would not erroneously conclude that it is permitted to cause a blemish on a firstborn offering intentionally merely due to an incident involving a minor. **But** in the case of **a gentile** adult, where this is a concern **that** people would **come to confuse** him **with** a Jewish **adult,** one might **say** that even the first, unintentional time should **not** be permitted. It is therefore **necessary** for the mishna to teach both cases.

אָמַר רַב חִסְדָּא אָמַר רַב קְטִינָא: לֹא שָׁנוּ אֶלָּא דַּאֲמַרוּ לֵיהּ ״אֶלָּא אִם כֵּן הָיָה בּוֹ מוּם״, אֲבָל אִם אֲמַרוּ לֵיהּ ״אִם נַעֲשָׂה בּוֹ מוּם״ – כְּמַאן דַּאֲמַרוּ לֵיהּ ״וְיֵל עֲבִיד בֵּיהּ מוּמָא״ דָּמֵי.

§ The Gemara analyzes the incident involving the Roman quaestor. **Rav Ḥisda says** that **Rav Ketina says: They taught** that the firstborn offering is permitted **only** in a case **where** the bystanders **said to** the quaestor: A firstborn offering may not be slaughtered **unless it has a blemish,** as this is referring to a blemish that develops naturally. **But if they said to him** that a firstborn offering may be slaughtered only **if a blemish was caused** to form **upon it,**[H] which indicates human intervention, **it is considered as though they** explicitly **told him: Go and cause a blemish on it,** in which case the animal is prohibited.

אֲמַר רָבָא: מִכְּדִי מִמֵּילָא הוּא, מַה לִּי ״הָיָה״, מַה לִּי ״נַעֲשָׂה״? אֶלָּא ״נַעֲשָׂה״ נַמִּי מִמֵּילָא הוּא, וְלָא שָׁנָא.

The Gemara cites a dissenting opinion. **Rava said: Now** consider, both expressions in fact indicate that the blemish occurred **by itself,** as both statements are in the passive. Accordingly, **what** difference is it **to me** whether the bystanders used the expression: If it **had** a blemish, or the expression: A blemish **was caused** in it? **Rather,** the expression: **Was caused, also** indicates that it occurred **by itself, and** there **is no difference** between the expressions. In both instances the firstborn offering would be permitted.

״זֶה הַכְּלָל כָּל שֶׁהוּא לְדַעַת אָסוּר״. לְאִיתּוּיֵי מַאי? לְאִיתּוּיֵי גְּרָמָא.

The mishna teaches that **this** is **the principle:** In the case of **any** blemish **that is** caused **with** his **intent,** the animal's slaughter is **prohibited.** The Gemara explains: **What** does this principle serve **to add?** It serves **to add an indirect** action, i.e., a blemish caused in this manner is also considered an intentional act and the animal may not be slaughtered on its account.

״שֶׁלֹּא לְדַעַת״ – לְאִיתּוּיֵי מֵסִיחַ לִפְנֵי תּוּמּוֹ.

The Gemara further inquires: What is added by the phrase in the second part of the principle: If the blemish was caused **without** his **intent,** the animal's slaughter is permitted? This serves **to add** an instance where a gentile did not inquire about the nature of the firstborn offering, but rather discovered it from one who **speaks offhandedly.**[H] Although the gentile intentionally caused a blemish in the animal, since the Jew did not intentionally prompt him to cause it, the animal is permitted.

HALAKHA

They said to him that it may be slaughtered only if a blemish was caused to form upon it – אָמְרוּ לֵיהּ אִם נַעֲשָׂה בּוֹ מוּם: The Ramban rules in accordance with the opinion of Rava, that even if the bystanders told the quaestor that the firstborn offering may be slaughtered only if a blemish was caused in it, the animal is still fit for slaughter. The *Shakh* is likewise lenient in this case, as this penalty applies only by rabbinic law (*Shulḥan Arukh*, *Yoreh De'a* 313:3).

Speaks offhandedly – מֵסִיחַ לִפְנֵי תּוּמּוֹ: In a case where a gentile inquired why a firstborn offering may not be slaughtered, or even if he did not inquire (*Shakh*), and he hears a Jew offhandedly mention that it is prohibited to slaughter a firstborn offering unless it develops a blemish, if the gentile subsequently causes a blemish in a firstborn offering, the animal may be slaughtered. The reason is that it is assumed that the gentile did not intend to render the animal fit by means of his action.

But if a Jew mentioned this fact to a gentile maidservant in his employ, and she subsequently caused a blemish in a firstborn animal, it is assumed that she caused it with the intention of rendering it fit for slaughter. In such a case, the animal may not be slaughtered on account of this blemish, both because the maidservant had that intent and because it is presumed that the Jew purposely hinted to his maidservant by conveying to her this information about a firstborn offering (*Shulḥan Arukh*, *Yoreh De'a* 313:2–3, and see *Taz* there).

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מתני׳ הָיָה בְּכוֹר רוֹדְפוֹ, בְּעָטוֹ וְעָשָׂה בּוֹ מוּם – הֲרֵי זֶה שׁוֹחֲטִין עָלָיו.

MISHNA If one's **firstborn** offering **was pursuing him,**[H] and **he kicked** the animal **and caused a blemish in it, he may slaughter** the animal **on** account of **that** blemish.

גמ׳ אָמַר רַב פַּפָּא: לֹא שָׁנוּ אֶלָּא שֶׁבְּעָטוֹ בִּשְׁעַת רְדִיפָה, אֲבָל לְאַחַר רְדִיפָה – לֹא. פְּשִׁיטָא!

GEMARA **Rav Pappa says: They taught** that the firstborn offering may be slaughtered **only** in an instance **where he kicked it at the time of its pursuit. But** if the individual kicked the animal **after** its **pursuit,** it may **not** be slaughtered, as he intended to cause a blemish in order to render it permitted to be slaughtered. The Gemara raises a difficulty: It is **obvious** that it is not permitted to slaughter the animal in such a case.

מַהוּ דְּתֵימָא צְעָרֵיהּ הוּא דְּמִדְכַּר – קָא מַשְׁמַע לָן.

The Gemara explains: Rav Pappa's statement is necessary, **lest you say** that it is in fact permitted to slaughter the firstborn offering since he kicked it after its pursuit only out of anger, as **he recalls his distress** caused by its pursuit of him, and not in order to render the animal permitted to be slaughtered. Rav Pappa therefore **teaches us** that it is assumed that he kicked the animal with the express intention of causing a blemish in it, not merely out of anger, and therefore it may not be slaughtered.

אִיכָּא דְּאָמְרִי, אָמַר רַב פַּפָּא: לָא תֵּימָא בִּשְׁעַת רְדִיפָה – אִין, אֲבָל שְׁלֹא בִּשְׁעַת רְדִיפָה – לָא. אֶלָּא אֲפִילּוּ לְאַחַר רְדִיפָה – נַמִּי; מַאי טַעְמָא – צְעָרֵיהּ דְּמִדְכַּר.

There are those **who say** the opposite version of this discussion. **Rav Pappa says: Do not say** that if the individual kicked the firstborn offering **at the time of** the **pursuit,** then **yes,** it is permitted to slaughter it, **but** if he kicked it **not at the time of** the **pursuit,** it is **not** permitted to slaughter it. **Rather, even** if he kicked it **after** its **pursuit** of him, it is **also** permitted. **What is the reason?** It is assumed that he kicked it after the pursuit not with the intention of causing a blemish, but because **he recalls his distress** caused by its pursuit of him.

אָמַר רַב יְהוּדָה: מוּתָּר לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא לָאֲוִיר הָעוֹלָם. אָמַר רָבָא: גְּדָיָא – בְּאוּדְנֵיהּ, אִימְּרָא – בְּשִׂפְוָותֵיהּ. אִיכָּא דְּאָמְרִי: אִימְּרָא נַמִּי בְּאוּדְנֵיהּ, אֵימוּר דָּרֵךְ צְדָעָיו נִפַּק.

§ **Rav Yehuda says: It is permitted to cause a blemish in a firstborn** fetus **before it emerges**[H] **into the air of the world,** as it obtains its sacred status only when it is born. Applying this ruling, **Rava said:** In the case of **a kid,** it is practical to cause a blemish **on its ear.** Since a kid's ears are long they emerge from the birth canal prior to the head. With regard to **a lamb,** whose ears are short and do not appear before the head, it is practical to cause a blemish only **on its lip.**[B] **There are** those **who say** that there is a different version of this statement: In the case of **a lamb as well,** it is practical to cause a blemish **on its ear,** as one can **say** that **it emerges** from the birth canal **through its temples,**[B] in which case its ears are visible first.

HALAKHA

If one's firstborn offering was pursuing him – הָיָה בְּכוֹר רוֹדְפוֹ: If one's firstborn offering was pursuing him and he kicked it, thereby causing a blemish, it is permitted to slaughter the animal on account of that blemish. This *halakha* applies even if the owner kicked the animal after the pursuit, in accordance with the second version of the statement of Rav Pappa (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:11 and Mahari Kurkus there; *Shulḥan Arukh*, *Yoreh De'a* 313:4).

It is permitted to cause a blemish in a firstborn fetus before it emerges, etc. – מוּתָּר לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא כו׳: Nowadays it is permitted to cause a blemish on a firstborn fetus before it emerges from the womb, in accordance with the opinion of Rabbi Yehuda, and based on the Gemara on *Temura* 24b (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:14; *Shulḥan Arukh*, *Yoreh De'a* 313:7).

BACKGROUND

Kid's ear and lamb's ear – אוֹזֶן הַכֶּבֶשׂ וְאוֹזֶן הַגְּדִי:



Ear of a goat



Ear of a sheep

Through its temples – דֶּרֶךְ צְדָעָיו: In a normal delivery, the front of the head, i.e., lips and nose, emerges first. Birth by way of the temples is possible either if the lamb's head is bent down, allowing for the apical region and ears to emerge first, or if the head is tilted to one side, when one of the ears will emerge first.

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LANGUAGE

Swallow [*legima*] – לְגִימָא: This is related to the Arabic root لقم, *lqm*, meaning feed. In a broader context it is used by the Sages in reference to communal eating. In any case, in the Gemara it primarily refers to the swallowing of food rather than drink, which is its contemporary meaning.

אָמַר רָבָא: אָכַל וְלָא מֵיחֲזֵי, פָּעֵי וּמֵיחֲזֵי – חֲזֵי מוּמָא. מַאי קָא מַשְׁמַע לָן? תָּנֵינָא: הַחוּטִין הַחִיצוֹנוֹת – שֶׁנִּפְגְּמוּ וְשֶׁנִּגְמְמוּ, הַפְּנִימִיּוֹת – שֶׁנֶּעֱקְרוּ; מַאי טַעֲמָא, לָאו מִשּׁוּם דְּכִי פָּעֵי מֵיחֲזֵי?

Rava says: In a case where a firstborn has a blemish in its mouth, if, when it **eats,** the blemish **is not visible,** but when it opens its mouth wide and **cries out, it is visible,** this **is** considered **a blemish,** rendering the animal fit for slaughter. The Gemara asks: **What is** this **teaching us? We learn** this in the mishna (39a) with regard to blemishes that render a firstborn offering fit for slaughter: **The external gums that were damaged**[H] and lacking or **that were scratched,** and likewise, **the internal** gums **that were** entirely **extracted,** are considered blemished. **What is the reason** that if the internal gums were extracted it is considered a blemish? Is it **not because when** the animal opens its mouth wide and **cries out, it is visible?** If so, what is the novelty of Rava's statement?

אָמַר רַב פַּפָּא: רָבָא נַמִּי טַעֲמָא דְּמַתְנִיתִין מְפָרֵשׁ; מַאי טַעֲמָא נֶעֱקְרוּ הָווּ מוּמָא – מִשּׁוּם דְּכִי פָּעֵי מֵיחֲזֵי.

Rav Pappa says in response: **Rava** is not in fact teaching a novel *halakha*. Rather, he **is explaining the reason** for the ruling **of the mishna: What is the reason** that if the internal gums **were extracted it is** considered **a blemish?** It is **that when** the animal opens its mouth wide and **cries out,** the blemish **is visible.**

מתני׳ כָּל הַמּוּמִין הָרְאוּיִין לָבֹא בִּידֵי אָדָם, רוֹעֵי יִשְׂרָאֵל – נֶאֱמָנִין, רוֹעִים כֹּהֲנִים – אֵינָן נֶאֱמָנִין. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: נֶאֱמָן הוּא עַל שֶׁל חֲבֵירוֹ, וְאֵין נֶאֱמָן עַל שֶׁל עַצְמוֹ. רַבִּי מֵאִיר אוֹמֵר: הֶחְשׁוּד עַל הַדָּבָר לֹא דָנוּ וְלֹא מְעִידוּ.

MISHNA With regard to **all the blemishes that are capable of being brought about by a person,**[H] **Israelite shepherds are deemed credible** to testify that the blemishes were not caused intentionally. But **priest-shepherds are not deemed credible,** as they are the beneficiaries if the firstborn is blemished. **Rabban Shimon ben Gamliel says:** A priest is **deemed credible** to testify **about** the firstborn **of another,**[H] **but is not deemed credible** to testify **about** the firstborn belonging **to him. Rabbi Meir says:** A priest **who is suspect about the matter** of causing a blemish may **neither adjudicate nor testify** in cases involving that matter, even on behalf of another.

גמ׳ רַבִּי יוֹחָנָן וְרַבִּי אֶלְעָזָר, חַד אָמַר: רוֹעֵי יִשְׂרָאֵל בֵּי כֹּהֲנִים – נֶאֱמָנִין, לִלְגִימָא לָא חָיְישִׁינַן.

GEMARA **Rabbi Yoḥanan and Rabbi Elazar** disagree with regard to the meaning of the mishna. **One** of them **says** that the case of **Israelite shepherds** is where the shepherds are in **the house of priests,** i.e., in the employ of a priest. These shepherds are **deemed credible** to testify that the blemishes were not caused intentionally, as **we are not concerned** they are lying **for a swallow** [***lilegima***][L] of the firstborn that their priest employer might give them in exchange.

רוֹעֵי כֹּהֲנִים בֵּי יִשְׂרָאֵל – אֵין נֶאֱמָנִין, מֵימַר אָמַר: כֵּיוָן דְּקָא טָרַחְנָא בֵּיהּ – לָא שָׁבֵיק לְדִידִי וְיָהֵיב לְאַחֲרִינִי.

And the case of **priest-shepherds** is where the shepherds are in **the house of an Israelite,** i.e., in the latter's employ. In such a case, the priest-shepherds **are not deemed credible** to testify that the blemishes were not caused intentionally, as the priest-shepherd **can say: Since I have toiled with** this firstborn offering, my Israelite employer **will not forsake me and give** it **to another** priest. The priest is assumed to be lying, as he has a motive to cause a blemish in the animal.

HALAKHA

The external gums that were damaged – הַחוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ: In a case where an animal's external gums became perforated, damaged, or cut widthwise, even if some of the gums remain, these are all considered blemishes. Likewise, in a case where the internal gums were completely extracted, this is a blemish, as it is visible when the animal opens its mouth to cry out (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:3).

All the blemishes that are capable of being brought about by a person – כָּל הַמּוּמִין הָרְאוּיִין לָבֹא בִּידֵי אָדָם: In a case involving a firstborn offering with a blemish that was most likely caused by a person's actions, its shepherd is deemed credible to testify that the blemish was not caused intentionally, in which case the animal is fit for slaughter. This is the *halakha* only if the shepherd is an Israelite in the employ of a priest. If the shepherd is a priest in the employ of an Israelite, he is not deemed credible, as there is a concern that he himself caused the blemish in order to benefit from its meat.

According to the Rema, a priest is deemed credible with regard to the blemish of his Israelite employer's firstborn offering, as the *halakha* is in accordance with the opinion of Rabban Shimon ben Gamliel, who disputes the ruling of the first *tanna*. Furthermore, the Rosh notes that according to the Gemara's second explanation, it is undisputed that a priest-shepherd in the employment of an Israelite is deemed credible, and the *halakha* follows the more lenient explanation since this is a matter of rabbinic law (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:16; *Shulḥan Arukh*, *Yoreh De'a* 314:2).

Rabban Shimon ben Gamliel says: A priest is deemed credible about the firstborn of another – רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר נֶאֱמָן הוּא עַל שֶׁל חֲבֵירוֹ: A priest is deemed credible to testify for another priest that a blemish occurred naturally, and there is no concern about reciprocal behavior. The reason is that although priests are not deemed credible with regard to themselves, they are deemed credible to testify about the firstborn offering of another priest, as it is assumed that one does not sin when the benefit of that sin is derived solely by another (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:17; *Shulḥan Arukh*, *Yoreh De'a* 313:3).

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וְהוּא הַדִּין כֹּהֵן לְכֹהֵן, דְּחָיְישִׁינַן לְגוֹמְלִין.

And the same is true in the case of **a priest** who testifies **for** the sake of another **priest.** Although the first priest would not derive benefit from his testimony immediately, he is nevertheless not deemed credible to testify, **as we are concerned about reciprocal** behavior, i.e., the other priest might later repay the favor and lie on his behalf.

וַאֲתָא רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל לְמֵימַר: נֶאֱמָן הוּא עַל שֶׁל חֲבֵירוֹ, וְאֵינוֹ נֶאֱמָן עַל שֶׁל עַצְמוֹ. וַאֲתָא רַבִּי מֵאִיר לְמֵימַר: הֶחְשׁוּד עַל הַדָּבָר לֹא דָנוּ וְלֹא מְעִידוּ.

And Rabban Shimon ben Gamliel comes to say that the testimony of a priest in such a case, when he testifies **about** the firstborn **of another** priest, **is deemed credible,** as there is no concern about reciprocal behavior. But **he is not deemed** credible **with regard to his own** firstborn. **And Rabbi Meir comes to say** that a priest, **who is suspect about the matter** of causing a blemish, may **neither adjudicate nor testify** in cases involving that matter, even on behalf of another. The difference between the opinion of Rabbi Meir and that of the first *tanna* will be discussed further on.

וְחַד אָמַר: רוֹעֵי יִשְׂרָאֵל וְהֵן כֹּהֲנִים – נֶאֱמָנִין,

The Gemara cites the other explanation of the mishna: **And** the other **one** of the two *amora'im* **says:** The case of **Israelite shepherds** is where the shepherds **are priests** in the employ of an Israelite. The mishna is teaching that these shepherds **are deemed credible** to testify that the blemishes on their employer's firstborn offering were not caused intentionally, as they are not suspected of lying in order to obtain its meat.

Perek **V**
Daf **35** Amud **b**

מֵימַר אָמַר: לָא שָׁבִיק צוּרְבָא מֵרַבָּנַן וְיָהֵיב לְדִידִי. רוֹעֵי כֹּהֲנִים וְהֵן יִשְׂרָאֵל אֵינָן נֶאֱמָנִין – דְּחָיְישִׁינַן לְלִגְמָא,

The reason is that it is assumed that the priest-shepherd would **say:** My Israelite employer **will not forsake** a priest who is **a Torah scholar and give** the blemished animal **to me,** an unlearned shepherd. The case of **priest-shepherds** is where the shepherds **are Israelites** in the employ of a priest. These shepherds are **not deemed credible** to testify, **as we are concerned** that they might be lying **for a swallow** of the firstborn that their priest employer would give them in exchange.

וְכָל שֶׁכֵּן כֹּהֵן לְכֹהֵן – דְּחָיְישִׁינַן לְגוֹמְלִין וְחָיְישִׁינַן לְלִגְמָא. וַאֲתָא רַבָּן שִׁמְעוֹן לְמֵימַר: נֶאֱמָן עַל שֶׁל חֲבֵירוֹ וְאֵינוֹ נֶאֱמָן עַל שֶׁל עַצְמוֹ. וַאֲתָא רַבִּי מֵאִיר לְמֵימַר: הֶחְשׁוּד עַל הַדָּבָר לֹא דָנוּ וְלֹא מְעִידוּ.

And all the more so the testimony of **a priest for** the sake of another **priest** is not deemed credible, **as we are concerned that** the two might engage in **reciprocal** behavior, **and we are concerned** that the priest-shepherd might be lying **for a swallow** of the firstborn offering. **And Rabban Shimon ben Gamliel comes to say** that the priest-shepherd **is deemed credible** to testify **with regard to** the firstborn offering **of another** priest, **but is not deemed credible** to testify **with regard to** a firstborn belonging to **himself. And Rabbi Meir comes to say** that a priest **who is suspect about the matter** of causing a blemish may **neither adjudicate nor testify** in cases involving that matter, even on behalf of another.

בְּשִׁלְמָא לְמַאן דְּאָמַר רוֹעֵי יִשְׂרָאֵל וְהֵן כֹּהֲנִים נֶאֱמָנִין – הַיְינוּ דַּאֲתָא רַבִּי מֵאִיר לְמֵימַר: הֶחְשׁוּד עַל הַדָּבָר לֹא דָנוּ וְלֹא מְעִידוּ.

The Gemara raises a difficulty: **Granted, according to** the second opinion, i.e., **the one who says** the first *tanna* maintains that the case of **Israelite shepherds** is where the shepherds **are priests** in the employ of an Israelite, and they **are deemed credible** to testify, **this is** the reason **that Rabbi Meir comes to** disagree and **say** that a priest **who is suspect about the matter** of causing a blemish may **neither adjudicate nor testify** even for the sake of an Israelite employer.

אֶלָּא לְמַאן דְּאָמַר רוֹעֵי כֹּהֲנִים בֵּי יִשְׂרָאֵל אֵין נֶאֱמָנִין, מַאי אֲתָא רַבִּי מֵאִיר לְאַשְׁמוּעִינַן? הַיְינוּ תַּנָּא קַמָּא!

But according to the first opinion, i.e., **the one who says** that the first *tanna* maintains that the case of **priest-shepherds** is where the shepherds are in **an Israelite's house,** and they **are not deemed credible** to testify, **what is Rabbi Meir coming to teach us? This is** the same opinion as that of the **first *tanna*** himself.

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אִיכָּא בֵּינַיְיהוּ דְּרַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹסַאי. דְּתַנְיָא, רַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹסַאי אוֹמֵר: בְּכוֹר בֵּי כֹהֵן – צָרִיךְ שְׁנַיִם מִן הַשּׁוּק לְהָעִיד עָלָיו.

The Gemara answers: **There is** a difference **between** the opinions of the first *tanna* and Rabbi Meir **with regard to** a statement **of Rabbi Yehoshua ben Kefusai.**[NP] **As it is taught** in a *baraita* that **Rabbi Yehoshua ben Kefusai says:** If **a firstborn** animal **in the house of a priest** developed a blemish, **two** people **from the marketplace,** i.e., not from the priest's household, are **required**[N] **to testify about it** that the blemish was not caused deliberately. This unqualified statement indicates that the two people can even be priests, provided that they are not household members.

רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: אֲפִילּוּ בְּנוֹ, אֲפִילּוּ בִּתּוֹ. רַבִּי יוֹסֵי אוֹמֵר: אֲפִילּוּ עֲשָׂרָה וְהֵן בְּנֵי בֵיתוֹ – אֵין מְעִידִין עָלָיו.

The *baraita* continues: **Rabban Shimon ben Gamliel says: Even** the priest's **son** and **even his daughter** may testify about it. **Rabbi Yosei says: Even** in a case where there are **ten** people, if **they are members of his household, they may not testify about it.** The first *tanna* of the mishna maintains that only a priest who is a shepherd of the animal in question is not deemed credible to testify, but the testimony of an independent priest is credible. This accords with the opinion of Rabbi Yehoshua ben Kefusai, who allows the testimony of any two independent people, including a priest. Conversely, Rabbi Meir does not deem credible even the testimony of an independent priest, as indicated by his general statement about suspect priests.

כְּמַאן אָזְלָא הָא דְּאָמַר רַב חִסְדָּא אָמַר רַב קְטִינָא: סְפֵק בְּכוֹר שֶׁנּוֹלַד בֵּי יִשְׂרָאֵל – צָרִיךְ שְׁנַיִם מִן הַשּׁוּק לְהָעִיד עָלָיו?

The Gemara discusses a related statement: **In accordance with whose** opinion **is that which Rav Ḥisda says** that **Rav Ketina says:** In the case of an animal whose status as a **firstborn** is **uncertain that was born** in the **house,** i.e., in the possession, **of an Israelite,** e.g., it was uncertain whether the mother had previously given birth, in which case the animal remains in the possession of the Israelite and may be eaten upon developing a blemish, **two** people **from the marketplace** are **required to testify about it?**

כְּמַאן – כְּרַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹסַאי.

In accordance with whose opinion is this statement? It is **in accordance with** the opinion of **Rabbi Yehoshua ben Kefusai.** Just as he requires two independent people to testify about a firstborn offering in the possession of a priest, as he is suspected of intentionally causing the blemish, so too, he requires two independent people to testify in the case of an uncertain status of a firstborn offering born in the possession of an Israelite.

רַב נַחְמָן אָמַר: בְּעָלִים מְעִידִין עָלָיו. דְּאִי לָא תֵּימָא הָכִי, מַעֲשֵׂר לְרַבִּי מֵאִיר מִי מֵעִיד עָלָיו?

Rav Naḥman disagrees and **says:** The Israelite **owners** themselves **may testify about it.**[H] **As, if you do not say so,** but instead maintain that any involved person is suspected of deliberately causing a blemish in his firstborn animal, this poses a difficulty with regard to the *halakha* of an animal **tithe** offering, which may also be eaten if it developed a blemish. **According to Rabbi Meir, who can testify about it?** Rabbi Meir maintains that anyone who is suspect about the matter of causing a blemish on his own behalf may neither adjudicate nor testify in cases involving that matter even on behalf of another. If so, how can anyone, even an Israelite, testify about any blemished animal-tithe offering? It must be that an Israelite is not suspected of deliberately causing blemishes.

NOTES

There is a difference between them with regard to a statement of Rabbi Yehoshua ben Kefusai – אִיכָּא בֵּינַיְיהוּ דְּרַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹסַאי: According to Rashi, whose explanation is followed in the commentary, Rabbi Yehoshua ben Kefusai apparently maintains a more stringent opinion than the first *tanna* of the mishna. Whereas the first *tanna* maintains that only a priest-shepherd is not deemed credible to testify about his master's firstborn animal, but an Israelite shepherd is deemed credible, Rabbi Yehoshua ben Kefusai rules that any shepherd, whether an Israelite or priest, is not deemed credible. If so, it follows that the first *tanna* of the mishna does not entirely agree with Rabbi Yehoshua ben Kefusai, as the first *tanna* of the mishna holds that an Israelite shepherd may testify about his master's firstborn animal.

Others contend that with regard to a priest-shepherd, both the first *tanna* and Rabbi Meir agree that his testimony about his master's firstborn animal is not deemed credible. They disagree with regard to the testimony of an Israelite shepherd. The first *tanna* deems the Israelite shepherd's testimony credible, while Rabbi Meir agrees with the opinion of Rabbi Yehoshua ben Kefusai, who requires two independent people in all circumstances, whether the shepherd is a priest or an Israelite (Rabbeinu Gershom Meor HaGola; see Rambam's Commentary on the Mishna).

Two from the marketplace are required – צָרִיךְ שְׁנַיִם מִן הַשּׁוּק: According to some commentaries, the requirement for two individuals to testify refers exclusively to priests. In the case of an Israelite, even one individual is deemed credible to testify, in accordance with the principle that one witness is deemed credible with regard to prohibitions (*Tosafot*; see *Gittin* 2b). Others apparently maintain that the requirement for two witnesses applies to an Israelite as well (Rashi; Rambam). One explanation suggested for this unusual stringency is that this animal has the presumptive status of being prohibited, and therefore the purpose of the testimony about its blemish is to nullify this presumptive status and permit one to derive benefit from it. In such a case, the principle is that one witness is not sufficiently powerful to revoke a presumptive status of being prohibited; rather, two witnesses are required (*Ḥiddushei Batra*).

PERSONALITIES

Rabbi Yehoshua ben Kefusai – רַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹסַאי: Virtually nothing is known about this fourth-generation *tanna*. One fact that is known is that he was Rabbi Akiva's son-in-law and he testified about his father-in-law's customs. Elsewhere, Rabban Shimon ben Gamliel II cites a statement in his name.

HALAKHA

In a case of an uncertain firstborn animal…the Israelite owners may testify about it – סְפֵק בְּכוֹר...בְּעָלִים מְעִידִין עָלָיו: Israelites are not suspected of intentionally causing blemishes in firstborn animals, even those in their possession. Accordingly, if there is an an animal whose status as a firstborn is uncertain in the possession of an Israelite, although the owner stands to gain if the animal was blemished inadvertantly, he is deemed credible to testify that the blemish did in fact occur in that manner (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 5:7; *Shulḥan Arukh*, *Yoreh De'a* 314:10).

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מַעֲשֵׂר וַדַּאי מְהֵימַן, דְּאִי בָּעֵי שָׁדֵי בֵּיהּ מוּמָא בְּכוּלֵּיהּ עָדְרֵיהּ! אֶלָּא: סְפֵק בְּכוֹר, לְרַבִּי מֵאִיר מִי מֵעִיד עָלָיו?

The Gemara rejects this claim: With regard to the animal **tithe** offering, the owner is **certainly deemed credible**[H] to testify that its blemish occurred naturally, **because if he wants,** he could legitimately **cause a blemish in his entire flock** before the obligation to separate tithes came into effect. **Rather,** this is what Rav Naḥman stated: If an Israelite is not deemed credible to testify about a blemish found on an animal whose status as a **firstborn** is **uncertain,** then **according to Rabbi Meir, who can testify about it?** Both Israelites and priests stand to gain if their animal whose status as a firstborn is uncertain develops a blemish, and therefore no one should be deemed credible to testify about it.

וְכִי תֵּימָא: הָכִי נַמִּי דְּלֵית לֵיהּ תַּקָּנְתָּא – וְהָתְנַן, שֶׁהָיָה רַבִּי יוֹסֵי אוֹמֵר: כָּל שֶׁחֲלִיפָיו בְּיַד כֹּהֵן – פָּטוּר מִן הַמַּתָּנוֹת, וְרַבִּי מֵאִיר מְחַיֵּיב!

And if you would say that **indeed,** according to Rabbi Meir, an animal whose status as a firstborn is uncertain **has no remedy** that can render it fit for slaughter, as no one is deemed credible to testify about its blemish, this cannot be correct. **But didn't we learn** in a mishna[N] (18b) **that Rabbi Yosei would say: Any** animal **whose replacements** are **in the possession of a priest is exempt from,** i.e., not subject to, the mitzva of giving **the** priestly **gifts, and Rabbi Meir deems** him **obligated** to give the gifts? Since Rabbi Meir permits the consumption of an animal whose status as a firstborn is uncertain, evidently he allows testimony about its blemish in such a case.

אֶלָּא שְׁמַע מִינָּהּ: בְּעָלִים מְעִידִין עָלָיו; כֹּהֲנִים הוּא דַּחֲשִׁידִי אַמּוּמֵי, יִשְׂרָאֵל – לָא חֲשִׁידִי אַמּוּמֵי.

Rather, learn from this that the Israelite **owners may testify about** their animals whose status as a firstborn are uncertain, despite the fact that priests may not. The reason is that **it is** only **priests who are suspected of** causing **blemishes; Israelites are not suspected of** causing **blemishes.**

אִיתְּמַר, רַב נַחְמָן אָמַר: הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל. רָבָא אָמַר: הֲלָכָה כְּרַבִּי יוֹסֵי.

§ It **was stated: Rav Naḥman says** that the ***halakha*** is **in accordance with** the opinion of **Rabban Shimon ben Gamliel,**[H] that a priest is deemed credible to testify about the blemished firstborn animal of another priest, even if he is a household member. **Rava says:** The ***halakha*** is **in accordance with** the opinion of **Rabbi Yosei,** that one's household members are not deemed credible to testify.

וּמִי אָמַר רָבָא הָכִי? וְהָאָמַר רָבָא: בְּעָלִים עוֹמְדִים עִמָּנוּ בַּחוּץ, נִכְנַס שָׁלֵם וְיָצָא חָבוּל – מְעִידִין עָלָיו! אֵימָא: כָּל בְּעָלִים עוֹמְדִים, וְלָא חָיְישִׁינַן.

The Gemara asks: **And does Rava** actually **say this? But doesn't Rava say:** If the priestly **owner** of a firstborn animal was **standing outside with us,** and the animal **entered** the house **whole and emerged injured,**[H] the household members **may testify about it** that the blemish was not caused by a person. Evidently, Rava maintains that the members of the priest's household are deemed credible to testify about the priest's firstborn. The Gemara answers: One can **say** that Rava is referring to a case where **all the owners,** i.e., the household members, **are standing outside,** while the shepherd alone remains inside. When the firstborn animal emerges injured, the shepherd is deemed credible to testify about the blemish **and we are not concerned** that he is lying.

NOTES

But didn't we learn in a mishna – וְהָתְנַן: The mishna mentions the case of a ewe that had not given birth previously, that is in the possession of an Israelite, and that bears two male lambs where it is unclear which lamb was born first.The mishna states that one lamb remains in its owner's possession, while its replacement, i.e., the other lamb, is given to a priest. The lamb in the possession of the Israelite may be slaughtered and eaten when it develops a blemish. The mishna further states that when the Israelite's lamb develops a blemish and is slaughtered, the owner is required to give the priestly gifts, i.e., the foreleg, the jaw, and the maw, as the lamb is a non-sacred animal. Rabbi Yosei disagrees with this point, while Rabbi Meir agrees with it, as the Gemara proceeds to explain.

HALAKHA

With regard to the animal tithe the owner is certainly deemed credible – מַעֲשֵׂר וַדַּאי מְהֵימַן: Although priests are not deemed credible to testify about firstborn animals, they, like Israelites, are deemed credible to testify that a blemish that appears on their animal tithe offerings occurred inadvertently. Furthermore, if the owner of an animal tithe offering is an expert in appraising blemishes, he may deem his own animal tithe offering permitted based on his own ruling (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:9).

The *halakha* is in accordance with the opinion of Rabban Shimon ben Gamliel, etc. – הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל וכו': A priest's children and household members may testify about his firstborn animal. A priest's wife may not testify, as one's wife is considered like himself (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:17; *Shulḥan Arukh*, *Yoreh De'a* 314:4).

If the owner was standing outside with us and the animal entered the house whole and emerged injured – בְּעָלִים עוֹמְדִים עִמָּנוּ בַּחוּץ נִכְנַס שָׁלֵם וְיָצָא חָבוּל: In a case where one witnessed a priest, along with all of his household members, standing outside their house, and their firstborn animal entered the house whole and emerged blemished, it may be slaughtered and eaten, as there is no concern that a household member hid inside the house and blemished the animal or that they had dug a pit in the house in order to damage the animal prior to congregating outside (*Tur*, *Yoreh De'a* 314; see *Beit Yosef*).

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אִי הָכִי, מַאי לְמֵימְרָא? מַהוּ דְּתֵימָא: נֵיחוּשׁ לַחֲשָׁדָא, קָא מַשְׁמַע לָן. וְהִלְכְתָא כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל. וְדַוְקָא בְּנוֹ וּבִתּוֹ, אֲבָל אִשְׁתּוֹ – לָא; מַאי טַעֲמָא? אִשְׁתּוֹ כְּגוּפוֹ דָּמֵי.

The Gemara asks: **If so,** that all of the household members were outside, **what** is the purpose **of stating** that the shepherd is deemed credible? This ruling is obvious. The Gemara answers: This ruling is necessary **lest you say** that **we should entertain a suspicion** that the shepherd himself caused the blemish. Rava therefore **teaches us** that this is not so, and the shepherd is deemed credible. The Gemara concludes: **And the *halakha*** is **in accordance with** the opinion of **Rabban Shimon ben Gamliel,** that a priest's household members may testify about his blemished firstborn offering. **And** this applies **specifically** to **his son and daughter, but his wife** may **not** testify. **What is the reason? One's wife is as oneself.**

אָמַר לֵיהּ רַב פַּפָּא לְאַבַּיֵי: לְרַבִּי מֵאִיר, דְּאָמַר: הֶחָשׁוּד עַל הַדָּבָר לֹא דָּנוּ וְלֹא מְעִידוּ, וְקָאָמַר רַבִּי מֵאִיר: הֶחָשׁוּד לְדָבָר אֶחָד – חָשׁוּד לְכָל הַתּוֹרָה כּוּלָּהּ, כֹּהֲנִים הָכִי נַמִּי דְּלָא דָּיְינִי דִּינָא? וְהָכְתִיב: ״וְעַל פִּיהֶם יִהְיֶה כָּל רִיב וְכָל נָגַע״!

§ **Rav Pappa said to Abaye: According to Rabbi Meir, who says that** a priest **who is suspect about the matter** of causing a blemish may **neither adjudicate nor testify** in cases involving that matter even on behalf of another, **and** in addition **Rabbi Meir says** that **one who is suspected of** transgressing **one matter,** i.e., who is known to have committed one transgression, **is suspected of** transgressing **the entire Torah,** it should follow that **priests** should **also not** be allowed to **administer judgment** at all. **But isn't it written** with regard to the priests: **"And according to their word shall every controversy and every stroke be"** (Deuteronomy 21:5)?

Perek **V**
Daf **36** Amud **a**

HALAKHA

Hearsay testimony – עֵד מִפִּי עֵד: If one witness states that he heard another individual testify that a particular blemish of a firstborn animal occurred inadvertently, he is deemed credible (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:15; *Shulḥan Arukh*, *Yoreh De'a* 314:5).

A woman with regard to testimony about a firstborn animal – אִשָּׁה בְּעֵדוּת בְּכוֹר: A woman is deemed credible to testify that she witnessed a firstborn animal develop an inadvertent blemish, in which case it may be slaughtered and consumed (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:15; *Shulḥan Arukh*, *Yoreh De'a* 314:5).

Not established as being a firstborn – לֹא הָיוּ מוּחְזָקִין בּוֹ שֶׁהוּא בְּכוֹר: In a case where a blemished animal is not established as a firstborn, a priest is deemed credible to claim that it is in fact a firstborn and yet its blemish occurred unintentionally, in which case it may be eaten (*Shulḥan Arukh*, *Yoreh De'a* 314:6).

NOTES

Only for testimony for which the testimony of a woman is valid – אֶלָּא לְעֵדוּת שֶׁהָאִשָּׁה כְּשֵׁרָה לָהּ בִּלְבַד: In other words, the *baraita* is not referring to testimony given to render it permitted for a woman to remarry, but to testimony provided by a woman. A woman is generally disqualified from providing testimony. In those exceptional cases where her testimony is valid, the Sages allowed testimony based on hearsay as well. In the case at hand, a woman is deemed credible to testify about the blemish of a firstborn animal, in accordance with the ruling of Rabban Shimon ben Gamliel on 35b. It should be noted that the initial interpretation of the *baraita* is correct as well, and testimony based on hearsay is valid to permit a woman to remarry, as a woman is able to testify to permit another woman to remarry (see *Yevamot* 122a).

אֵימַר דְּאָמַר רַבִּי מֵאִיר – לַחֲשָׁשָׁא, לְאַחְזוּקֵינְהוּ מִי אָמַר?

The Gemara answers: One can **say that Rabbi Meir says** that priests are suspect with regard to causing blemishes only to the extent **that** there is **a concern** that they might have caused a blemish. But **did he say** this ruling **to establish them** as those who definitely cause blemishes? Certainly not.

אִיבַּעְיָא לְהוּ: עֵד מִפִּי עֵד, מַהוּ לְעֵדוּת בְּכוֹר? רַב אַסִי אָסַר, וְרַב אַשִׁי שָׁרֵי. אָמַר לֵיהּ רַב אַסִי לְרַב אַשִׁי, וְהָא תָּנָא דְּבֵי מְנַשֶּׁה: אֵין עֵד מִפִּי עֵד כָּשֵׁר אֶלָּא לְעֵדוּת הָאִשָּׁה!

§ **A dilemma was raised before** the Sages: With regard to **testimony** based on **hearsay,**[H] where one repeats the testimony of another witness, **what is** the *halakha* **in** a case of such **testimony** about a blemished **firstborn** animal? **Rav Asi deems prohibited** the slaughter of the animal based on such testimony, **and Rav Ashi deems** it **permitted. Rav Asi said to Rav Ashi: But isn't it taught in** a *baraita* in the **school of Menashe** that **hearsay testimony is valid only for** the **testimony of a woman,** where one testifies that her husband is dead? This indicates that such testimony is not accepted in all other instances.

תְּנִי: אֶלָּא לְעֵדוּת שֶׁהָאִשָּׁה כְּשֵׁרָה לָהּ בִּלְבַד.

Rav Ashi responded: Emend the *baraita* and **teach** it like this: Testimony based on hearsay is valid **only for** that **testimony for which** the testimony of **a woman is valid.**[HN] According to Rav Ashi, the *baraita* is teaching that any case where the testimony of a woman is valid, hearsay testimony is valid as well, and this includes testimony concerning a blemished firstborn animal.

רַב יֵימָר אַכְשַׁר עֵד מִפִּי עֵד בִּבְכוֹר, קָרֵי עֲלֵיהּ מָרֵימָר: ״יֵימָר שָׁרֵי בּוּכְרָא״. וְהִלְכְתָא: עֵד מִפִּי עֵד כָּשֵׁר לְעֵדוּת בְּכוֹר.

The Gemara relates that **Rav Yeimar deemed fit testimony** based on **hearsay with regard to** a blemished **firstborn** animal. **Mareimar** condescendingly **called him: Yeimar** who **permits firstborn** animals. The Gemara concludes: **And the *halakha*** is that **testimony** based on **hearsay is valid** in the case **of a firstborn** animal.

אָמַר רַבִּי אִילְעָא: לֹא הָיוּ מוּחְזָקִין בּוֹ שֶׁהוּא בְּכוֹר, וּבָא אֶחָד וְאָמַר שֶׁהוּא בְּכוֹר וּמוּמוֹ עִמּוֹ – נֶאֱמָן.

§ The Gemara discusses a related matter. **Rabbi Ile'a says:** In a case where a blemished animal **was not established as being a firstborn,**[H] **and one** priest **came** to an expert **and said that it is a firstborn** animal **and** yet **its blemish is with it,** i.e., it was unintentionally blemished, **he is deemed credible,** and the expert may deem the animal fit for slaughter based on the priest's testimony.

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מַאי קָא מַשְׁמַע לָן, שֶׁהַפֶּה שֶׁאָסַר הוּא הַפֶּה שֶׁהִתִּיר? תָּנֵינָא: הָאִשָּׁה שֶׁאָמְרָה ״אֵשֶׁת אִישׁ הָיִיתִי וּגְרוּשָׁה אֲנִי״ – נֶאֱמֶנֶת, שֶׁהַפֶּה שֶׁאָסַר הוּא הַפֶּה שֶׁהִתִּיר!

The Gemara asks: **What is** Rabbi Ile'a **teaching us?** Is he teaching us the principle **that the mouth that prohibited** it **is the mouth that permitted** it,[N] i.e., when the only source that an item was prohibited is the statement of one who says that it is now permitted, his claim is accepted? But **we learn** this in a mishna (*Ketubot* 22a): With regard to **a woman who said: I was a married woman**[H] **and** now **I am a divorcée, she is deemed credible** and permitted to remarry, **as the mouth that prohibited** her by establishing that she was married **is the mouth that permitted** her by establishing that she was divorced.

מַהוּ דְּתֵימָא: הָתָם הוּא, דְּאִי בָּעְיָא לָא אָמְרָה. אֲבָל הָכָא, דְּלָא סַגְיָא דְּלָא אֲמַרָה, דְּקָדָשִׁים בַּחוּץ לָא אָכֵיל

The Gemara answers: Rabbi Ile'a's statement is necessary, **lest you say it is** only **there,** in the case of the mishna, that the woman's testimony is accepted, **as, if she wants** to remarry illegally, **she** does **not** need to **say** anything at all about previously being married. **But here,** with regard to the firstborn animal, it is different, **as,** if the priest wishes to eat the meat of the animal, **it not sufficient** for him **not to** bring the animal to an expert, i.e., he has no recourse other than to **say** that it is a firstborn animal which has a blemish requiring examination, **as** he cannot determine on his own whether this blemish permanently disqualifies the firstborn animal from sacrifice, and **he would not eat sacrificial** meat **outside** the Temple courtyard, which is punishable by *karet*.

אֵימָא: לָא הַפֶּה שֶׁאָסַר הוּא, קָא מַשְׁמַע לָן, דְּאִי מִשּׁוּם הָכִי – הֲוָה שָׁדֵי בֵּיהּ מוּמָא דְּנִיכָּר, וְאָכֵיל לֵיהּ.

Since the priest must admit that this is a firstborn animal, **I** might **say** that **this is not** a case of: **The mouth that prohibited** it is the mouth that permitted it, and therefore the priest is not deemed credible. To dispel this possibility, Rabbi Ile'a **teaches us** that he is deemed credible, **because if it due to that** reason, that the priest is suspected of causing the blemish, **he would have caused a blemish that** is **obvious to all.** In such a case, he would violate a mere prohibition, not one that is punishable by *karet*, since he would not be eating sacrificial meat outside the Temple courtyard, as the animal is blemished.

מַתְקִיף לָהּ מָר בַּר רַב אַשִׁי: מַאי שְׁנָא מֵהָהוּא גַּבְרָא דְּאוֹגַר לֵיהּ חַמְרָא לְחַבְרֵיהּ, וַאֲמַר לֵיהּ: לָא תֵּיזֵיל בְּאוֹרְחָא דִּנְהַר פְּקוֹד, דְּאִיכָּא מַיָּא, זִיל בְּאוֹרְחָא דְּנֶרֶשׁ, דְּלֵיכָּא מַיָּא. אָזַל בְּאוֹרְחָא דִּנְהַר פְּקוֹד וּמִית חַמְרָא, וַאֲתָא וַאֲמַר לֵיהּ: בְּאוֹרְחָא דִּנְהַר פְּקוֹד אָזֵלִי, וּמֵימוּ מַיָּא לָא הֲווּ.

Mar bar Rav Ashi objects to this: What is different between this case and **that** incident involving **a certain man who rented a donkey to another?** The owner **said to** the renter: **Look, do not go on the path of Nehar Pekod, where there is water** and the donkey is likely to drown. Instead, **go on the path of Neresh,**[B] **where there is no water.** The renter **went on the path of Nehar Pekod and the donkey died. When he came** back, **he said:** Yes, **I went on the path of Nehar Pekod, but there was no water** there, and therefore the donkey's death was caused by other factors.

וַאֲמַר רָבָא: מַה לוֹ לְשַׁקֵּר? אִי בָּעֵי אֲמַר: בְּאוֹרְחָא דְּנֶרֶשׁ אָזֵלִי. וַאֲמַר אַבַּיֵי: ״מַה לוֹ לְשַׁקֵּר״ בִּמְקוֹם עֵדִים לָא אָמְרִינַן.

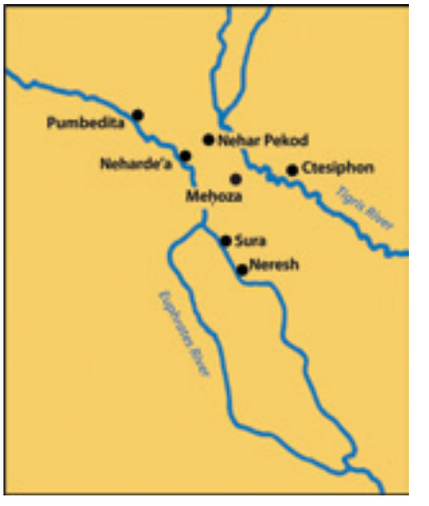
And Rava said: The renter's claim is accepted, due to the reasoning of: **Why would he lie** and state this claim? In other words, **if** this man **wanted** to lie, **he** could have **told** the donkey's owner: **I went on the path of Neresh,** as the owner instructed. **And Abaye said to** Rava: **We do not say** the principle of: **Why would he lie, in a place** where there are **witnesses.**[H] Since witnesses can be summoned to establish conclusively whether there was water along the path of Nehar Pekod, the reasoning that the renter could have stated a different claim is not employed. Similarly, the priest's contention that the blemish occurred inadvertently should not be deemed credible, as it is known that priests are suspected of causing blemishes.

NOTES

The mouth that prohibited is the mouth that permitted – הַפֶּה שֶׁאָסַר הוּא הַפֶּה שֶׁהִתִּיר: Applicable in all areas of *halakha*, this principle means that one who renders himself liable concerning a certain matter, whether a monetary obligation or ritual obligation, and who is the exclusive source for the court's knowledge of his liability, is deemed credible with regard to any limiting conditions he adds. The rationale is that without his information he would not be presumed to be under any obligation, and therefore his claim is accepted in its entirety, as he could have chosen to remain silent. Based on this logic, if there is an external reason that motivates him to admit to his liability, he is no longer considered the exclusive source of information, which means there is no reason to accept his limiting conditions.

BACKGROUND

Nehar Pekod…Neresh – נְהַר פְּקוֹד…נֶרֶשׁ: Nehar Pekod was a city situated on the Tigris slightly northwest of Ctesiphon, while Neresh was on the Euphrates, south of Sura. Neresh was an important agricultural and commercial center that was home to a large number of date palm farmers and alcoholic beverage producers. Straddling the desert, its inhabitants were considered uncultured. Despite its isolation, it was home to a Jewish community for many generations, and produced no small number of Sages. For a while, the prominent Sage Rav Pappa was the head of the academy in Neresh. Both Neresh and Nehar Pekod were cities with commercial centers known for their shrewd and aggressive businessmen.



Location of Neresh and Nehar Pekod

HALAKHA

A woman who said: I was a married woman – הָאִשָּׁה שֶׁאָמְרָה אֵשֶׁת אִישׁ הָיִיתִי: If a woman who does not have the presumptive status of a married woman claims that she was married but is now divorced, her claim is accepted. This is in accordance with the principle that the mouth that prohibited is the mouth that permitted. If there are witnesses who testify to this woman's status as having been previously married, her claim of being divorced is not accepted (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 12:1; *Shulḥan Arukh*, *Even HaEzer* 152:6, 7).

Why would he lie, in a place where there are witnesses – מַה לוֹ לְשַׁקֵּר בִּמְקוֹם עֵדִים: One rented out a donkey and warned the renter not to walk on a certain road, where there is water. The donkey died en route, and although the renter admitted to have walked on the specified road, he claimed that there was no water there. The Sages ruled that if witnesses can be found to testify that there was water there, the renter must pay for negligence in causing the death of the donkey. The halakhic principle that a litigant's claim is deemed credible when he had a better claim available if he wanted to lie is not applied when there are witnesses available (Rambam *Sefer Mishpatim*, *Hilkhot Sekhirut* 4:3).

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PERSONALITIES

Rabbi Yehoshua – רַבִּי יְהוֹשֻׁעַ: This is Rabbi Yehoshua ben Ḥananya, one of the leading Sages in the generation following the destruction of the Second Temple. He served as one of the Levite singers in the Temple. After its destruction, he was among the students who followed their primary teacher, Rabban Yoḥanan ben Zakkai, to Yavne. Rabbi Yehoshua lived a life of poverty, working as a blacksmith, and was recognized by all as one of the leading Torah authorities. While he disagreed with Rabban Gamliel's rulings on several occasions, he ultimately accepted his authority as *Nasi*. After Rabban Gamliel's death, he served as a leader of the Sages.

Rabban Gamliel – רַבָּן גַּמְלִיאֵל: Rabban Gamliel was *Nasi* of the Sanhedrin and one of the most important *tanna'im* in the period following the destruction of the Second Temple. Rabban Gamliel's father, Rabban Shimon ben Gamliel the Elder, had also been *Nasi* of the Sanhedrin and one of the leaders of the nation during the rebellion against Rome. Rabban Gamliel was taken to Yavne by Rabban Yoḥanan ben Zakkai after the destruction of the Temple, which is why he became known as Rabban Gamliel of Yavne.

After Rabban Yoḥanan ben Zakkai's death, Rabban Gamliel presided over the Sanhedrin. Under Rabban Gamliel's leadership, Yavne became an important spiritual center. The greatest of the Sages gathered around him, including his brother-in-law Rabbi Eliezer, Rabbi Yehoshua, Rabbi Akiva, and Rabbi Elazar ben Azarya. Rabban Gamliel sought to create a spiritual center for the Jews that would unite the entire people, a role that had been filled by the Temple until its destruction. Therefore, he strove to enhance the prominence and central authority of the Sanhedrin and its *Nasi*. His strict and vigorous leadership eventually led his colleagues to remove him from his post for a brief period, replacing him with Rabbi Elazar ben Azarya. Nevertheless, since everyone realized that his motives and actions were for the good of the people and were not based on personal ambition, they soon restored him to his position.

There are not many halakhic rulings cited explicitly in the name of Rabban Gamliel. Nevertheless, in his time and under his influence, some of the most important decisions in the history of Jewish spiritual life were made. These include the decision to follow Beit Hillel, the rejection of the halakhic system of Rabbi Eliezer, and the establishment of fixed formulas for prayers. It is known that two of his sons were Sages: Rabban Shimon ben Gamliel, who served as the head of the Sanhedrin after him, and Rabbi Ḥanina ben Gamliel.

LANGUAGE

Masters of the shields [*ba'alei terisin*] – בַּעֲלֵי תְּרִיסִין: Derived from the Greek θυρεός, *thureos*, whose meanings include an elongated shield.



Reconstructions of large Roman shields, or scuta

הָכִי הָשְׁתָּא?! הָתָם – וַדַּאי אִיכָּא מַיָּא הָתָם, וּדְאִישְׁתְּדִי בֵּיהּ מוּמָא – חֲשָׁשָׁא הוּא, וּבְמָקוֹם חֲשָׁשָׁא אָמְרִינַן ״מַה לוֹ לְשַׁקֵּר״. יָתֵיב רָבִינָא וְקָאָמַר לְהַאי שְׁמַעְתָּא בְּלָא גַּבְרָא, אֲמַר לֵיהּ רָבָא זוּטִי לְרָבִינָא: אֲנַן מִשְּׁמֵיהּ דְּרַבִּי אִילְעָא מַתְנִינַן לָהּ.

The Gemara rejects this suggestion: **How can** these cases **be compared? There,** with regard to the path of Nehar Pekod, **there is certainly water there, but** here, the possibility **that** the priest **caused a blemish in** the firstborn animal **is** only **a concern, and in a place of** mere **concern we** do **say** the reasoning of: **Why would he lie?** The Gemara relates that **Ravina was sitting and saying this *halakha*** of Rabbi Ile'a **anonymously. Rava Zuti said to Ravina: We learned this *halakha* in the name of Rabbi Ile'a.**

רַבִּי צָדוֹק הֲוָה לֵיהּ בּוּכְרָא, וְטָעָא לֵיהּ שַׁעֲרֵי בְּסַלֵּי, בְּהֲדֵי דְּקָאֲכִיל אִיבְּזַע שִׁיפְתֵּיהּ. אֲתָא לְקַמֵּיהּ דְּרַבִּי יְהוֹשֻׁעַ, אֲמַר לֵיהּ: כְּלוּם חִילַּקְנוּ בֵּין חָבֵר לְעַם הָאָרֶץ? אָמַר לוֹ רַבִּי יְהוֹשֻׁעַ: הֵן.

§ The Gemara relates: **Rabbi Tzadok,** an erudite priest, **had a firstborn** animal. **He placed barley in** wicker **baskets for it,** and **while it was eating, its lip split,** rendering the animal blemished. Rabbi Tzadok **came before Rabbi Yehoshua,**[P] to ask whether or not he is suspected of intentionally causing a blemish in his firstborn animal offering. Rabbi Tzadok **said to him: Didn't we differentiate between** a priest who is **a *ḥaver,*** i.e., learned, **and** a priest who is **an ignoramus,**[H] with regard to their credibility about blemishes found on a firstborn animal? **Rabbi Yehoshua said to him: Yes,** we did. Since you are a learned priest, you are deemed credible to testify that this blemish was caused inadvertently.

אֲתָא לְקַמֵּיהּ דְּרַבָּן גַּמְלִיאֵל, אֲמַר לֵיהּ: חִילַּקְנוּ בֵּין חָבֵר לְעַם הָאָרֶץ? אֲמַר לֵיהּ רַבָּן גַּמְלִיאֵל: לָא. אֲמַר לֵיהּ: וְהָא רַבִּי יְהוֹשֻׁעַ אָמַר לִי: הֵן! אָמַר לוֹ: הַמְתֵּן עַד שֶׁיַּעֲלוּ בַּעֲלֵי תְּרִיסִין לְבֵית הַמִּדְרָשׁ.

Rabbi Tzadok then **came before Rabban Gamliel,**[P] the *Nasi* and head of the academy of Yavne at the time. Rabbi Tzadok **said to him:** Didn't **we differentiate between** a priest who is **a *ḥaver* and** a priest who is **an ignoramus** with regard to credibility about blemishes found on a firstborn animal? **Rabban Gamliel said to him: No,** we did not. Rabbi Tzadok **said to him: But Rabbi Yehoshua said to me** that **yes,** we did differentiate in this manner. Rabban Gamliel **said to** Rabbi Tzadok: **Wait until the masters of the shields** [***ba'alei terisin***],[L] a reference to the Torah scholars who battle in the war of Torah, **enter the study hall,** at which point we will discuss this issue.

בֵּיוָן שֶׁנִּכְנְסוּ לְבֵית הַמִּדְרָשׁ, עָמַד הַשּׁוֹאֵל וְשָׁאַל: כְּלוּם חִילַּקְנוּ בֵּין חָבֵר לְעַם הָאָרֶץ? אֲמַר לֵיהּ רַבִּי יְהוֹשֻׁעַ: לָאו. אֲמַר לֵיהּ רַבָּן גַּמְלִיאֵל: וַהֲלֹא מִשְּׁמְךָ אָמְרוּ לִי הֵן!

When the Torah scholars **entered the study hall, the questioner stood** before everyone present **and asked:** With regard to blemishes found on a firstborn animal, **didn't we differentiate between** a priest who is **a *ḥaver* and** a priest who is **an ignoramus? Rabbi Yehoshua said to him: No,** we did not. **Rabban Gamliel said to him: But they said to me in your name** that **yes,** we did differentiate.

יְהוֹשֻׁעַ, עֲמוֹד עַל רַגְלֶיךָ וְיָעִידוּ בְּךָ! עָמַד רַבִּי יְהוֹשֻׁעַ עַל רַגְלָיו וְאָמַר: הֵיאָךְ אֶעֱשֶׂה? אִילְמָלֵי אֲנִי חַי וְהוּא מֵת – יָכוֹל הַחַי לְהַכְחִישׁ אֶת הַמֵּת, עַכְשָׁיו שֶׁאֲנִי חַי וְהוּא חַי – הֵיאָךְ חַי יָכוֹל לְהַכְחִישׁ אֶת הַחַי?

Rabban Gamliel continued: **Yehoshua, stand on your feet and they will testify against you** that you did, in fact, say that we differentiated in such a case. **Rabbi Yehoshua stood on his feet and said: How should I act** in this situation? **If I were alive and** Rabbi Tzadok **were dead, the living can contradict the dead,** and I could deny issuing that ruling. **Now that I am alive and he is alive, how can the living contradict the living?** I have no choice but to admit that I said it.

וְהָיָה רַבָּן גַּמְלִיאֵל עוֹמֵד וְדוֹרֵשׁ, וְרַבִּי יְהוֹשֻׁעַ עוֹמֵד עַל רַגְלָיו, עַד שֶׁרִינְּנוּ כָּל הָעָם וְאָמְרוּ לְחוּצְפִּית הַמְּתוּרְגְּמָן: עֲמוֹד, וְעָמַד.

In the meantime, **Rabban Gamliel was standing and lecturing, and Rabbi Yehoshua** all the while **was standing on his feet,** as Rabban Gamliel did not instruct him to sit. He remained standing in deference to the *Nasi*. This continued for some time, **until** it aroused great resentment against Rabban Gamliel, and **all of the people** assembled began **murmuring and said to Ḥutzpit the disseminator: Stop** conveying Rabban Gamliel's lecture, **and he stopped.**

HALAKHA

Didn't we differentiate between a *ḥaver* and an ignoramus – כְּלוּם חִילַּקְנוּ בֵּין חָבֵר לְעַם הָאָרֶץ: All priests are suspected of intentionally causing a blemish in a firstborn animal. This applies to a learned priest as well, if he performed an apparent act of subterfuge in order to cause a blemish, e.g., by placing animal fodder in a wicker basket, which is likely to damage the animal while it is eating. If a firstborn animal did develop a blemish in such a case, it may not be slaughtered on its account (Rambam *Sefer Korbanot, Hilkhot Bekhorot* 2:10; *Shulḥan Arukh, Yoreh De'a* 314:1).

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מתני׳ נֶאֱמָן הַכֹּהֵן לוֹמַר: ״הֶרְאֵיתִי בְּכוֹר זֶה, וּבַעַל מוּם הוּא״.

MISHNA **A priest is deemed credible to say: I showed this firstborn** animal to an expert **and** he ruled that **it is blemished.**[NH]

גמ׳ אָמַר רַב יְהוּדָה אָמַר רַב: נֶאֱמָן הַכֹּהֵן לוֹמַר: ״בְּכוֹר זֶה נָתַן לִי יִשְׂרָאֵל בְּמוּמוֹ״, מַאי טַעְמָא? כָּל מִילְּתָא דַּעֲבִידָא לְאִיגַּלּוּיֵי – לָא מְשַׁקְּרִי בָּהּ אֱינָשֵׁי. אָמַר רַב אַשִׁי, אַף אֲנַן נָמֵי תָּנֵינָא: נֶאֱמָן הַכֹּהֵן לוֹמַר: ״הֶרְאֵיתִי בְּכוֹר זֶה, וּבַעַל מוּם הוּא״; מַאי טַעְמָא? לָאו מִשּׁוּם דְּאָמְרִינַן: כָּל מִילְּתָא דַּעֲבִידָא לְאִיגַּלּוּיֵי לָא מְשַׁקְּרִי בָּהּ אֱינָשֵׁי?

GEMARA **Rav Yehuda says** that **Rav says: A priest is deemed credible to say: An Israelite gave me this firstborn** animal **with its blemish**[H] already inflicted upon it. **What is the reason?** With regard to **any matter that is likely to be revealed, people do not lie about it.** Since the Israelite can be questioned with regard to the veracity of the priest's claim, it is assumed that the priest will not risk lying. **Rav Ashi said: We learn** a similar principle in the mishna **as well: A priest is deemed credible to say: I showed this firstborn** animal to an expert **and** he ruled that **it is blemished. What is the reason** the priest's claim is deemed credible? **Is it not because we say** that with regard to **any matter that is likely to be revealed, people do not lie about it?**

הָתָם הוּא, דְּקָדֲשִׁים בַּחוּץ לָא אָכֵיל. אֲבָל הָכָא, כֵּיוָן דַּחֲשִׁידִי – חֲשִׁידִי.

The Gemara rejects the claim that the mishna's ruling is based on the principle that people do not lie about a matter that is likely to be revealed: Perhaps **there,** in the case of the mishna, the reason the priest's claim is accepted is that **he** would **not eat sacrificial** meat **outside** the Temple courtyard. If an expert had not permitted the meat, the priest would not eat it. **But here,** in Rav's case, where the priest claims an Israelite gave him an already blemished animal, **since** priests **are suspected** of causing blemishes and claiming that it was inadvertent, **they are** also **suspected** of causing a blemish and claiming it was given to them in that state by an Israelite.

מְתִיב רַב שֵׁיזְבִי: הָאוֹמֵר לְמִי שֶׁאֵין נֶאֱמָן עַל הַמַּעֲשֵׂר: ״קַח לִי מִמִּי שֶׁהוּא נֶאֱמָן״, אוֹ: ״מִמִּי שֶׁהוּא מְעַשֵּׂר״ – אֵינוֹ נֶאֱמָן; אַמַּאי? נֵיקָא: כָּל מִילְּתָא דַּעֲבִידָא לְאִיגַּלּוּיֵי, לָא מְשַׁקְּרִי בָּהּ אֱינָשֵׁי!

Rav Sheizevi raises an objection to Rav's ruling from a mishna (*Demai* 4:5): In the case of **one who says to someone who is not trusted with regard to tithe:**[H] **Purchase** produce **for me from someone who is trusted** with regard to tithes, i.e., one who does not purchase produce from an ignoramus, who generally does not separate tithes; **or** if he says: Purchase produce for me **from someone who tithes,** i.e., even from one who purchases produce from an ignoramus but is careful to set aside tithes upon purchasing the produce, the agent **is not deemed credible** to claim that he fulfilled the condition of the one who appointed him. According to Rav, **why** isn't the agent deemed credible? **Say** the principle that with regard to **any matter that is likely to be revealed, people do not lie about it.**

שָׁאנֵי הָתָם,

The Gemara answers: **It is different there,**

NOTES

I showed this firstborn animal and it is blemished – הֶרְאֵיתִי בְּכוֹר זֶה וּבַעַל מוּם הוּא: Rashi writes that witnesses are still necessary to testify that the priest did not cause the blemish himself, and the Rambam notes that one witness is sufficient to give this testimony. The Rosh apparently rules that no such testimony is required. His reasoning is that since the priest is believed that he had the blemish examined by a specific Sage whom he named, it is assumed that that Sage would have deemed it permitted only after having verified that the priest did not cause the blemish himself (*Ḥok Natan*).

HALAKHA

I showed this firstborn animal and it is blemished – הֶרְאֵיתִי בְּכוֹר זֶה וּבַעַל מוּם הוּא: In a case where a priest owns a firstborn animal that developed a blemish but it is unclear whether that blemish renders the animal permitted for slaughter, the priestly owner himself is deemed credible to testify that he had the blemish examined by an expert who ruled it permitted. Although priests are generally considered unreliable to testify with regard to blemishes found on firstborn animals, in this case the assumption is that they are telling the truth, as otherwise they would be consuming consecrated meat outside the Temple courtyard, which is punishable with *karet*. Some maintain that the priest does not need to name the expert who examined his firstborn, while others contend that if it is a conspicuous blemish, the name of a specific expert must be stated (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:18, and see Mahari Kurkus there; *Shulḥan Arukh*, *Yoreh De'a* 314:7, and *Shakh* and *Taz* there).

An Israelite gave me this firstborn animal with its blemish – בְּכוֹר זֶה נָתַן לִי יִשְׂרָאֵל בְּמוּמוֹ: A priest who claims that he received an already blemished firstborn animal from an Israelite, and may now partake of it, is deemed credible. This is because the accuracy of his claim can be verified, and he therefore is afraid to risk being found a liar (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:19; *Shulḥan Arukh*, *Yoreh De'a* 314:8).

One who says to someone who is not trusted with regard to tithe – הָאוֹמֵר לְמִי שֶׁאֵין נֶאֱמָן עַל הַמַּעֲשֵׂר: In a case where one instructs a person who is not trusted with regard to taking tithes to purchase produce from any individual who is careful to tithe, the agent is not deemed credible to say that he obeyed the instructions. If the one who appointed the agent specified the name of the individual from whom the agent should purchase the produce, the agent is deemed credible to say that he obeyed the instructions, as this matter can be verified (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 12:6; *Shulḥan Arukh*, *Yoreh De'a* 119:19).

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PERSONALITIES

Rabbi Yirmeya bar Abba – רַבִּי יִרְמְיָה בַּר אַבָּא: Two *amora'im* are known by the name Rabbi Yirmeya bar Abba. The first was a disciple-colleague of Rav, while the second was a third-generation *amora* and disciple of Rav Huna, who ascended to Eretz Yisrael and studied under Rabbi Yoḥanan. The Rabbi Yirmeya bar Abba referred to here is the former, who was a primary disciple in Rav's academy in Sura, and who subsequently became Rav's disciple-colleague (see *Berakhot* 27a). Rav's major disciples taught his statements in the name of Rabbi Yirmeya bar Abba, among them Rav Yehuda.

HALAKHA

I gave this firstborn animal to a priest with its blemish – בְּכוֹר זֶה נָתַתִּי לַכֹּהֵן בְּמוּמוֹ: An Israelite is deemed credible to testify that he gave a priest an already blemished firstborn animal. This applies even if the animal was young when it was given and is now much older, as there is no concern that the Israelite might identify the animal incorrectly. The *halakha* is in accordance with the opinion of Rabbi Yirmeya bar Abba (*Shulḥan Arukh*, *Yoreh De'a* 314:9).

דְּאִית לֵיהּ לְאִשְׁתְּמוּטֵי.

as he has the easy option **of extricating himself** from the accusation that he did not fulfill the condition of the one who appointed him, by claiming that in his opinion the individual from whom he purchased the produce was to be trusted. Since the issue of the third party's trustworthiness is subjective, the agent is not afraid to lie.

סֵיפָא וַדַּאי מְסַיְּיעָא לֵיהּ: ״מֵאִישׁ פְּלוֹנִי״ – הֲרֵי זֶה נֶאֱמָן.

The Gemara suggests: The **latter clause** of this mishna **certainly supports** the ruling of Rav, that people do not lie with regard to any matter that will be revealed. How so? The latter clause states that if the one instructed the agent to purchase produce specifically **from so-and-so,** who is reliable with regard to tithes, then **this** agent **is deemed credible**[N] to claim that he adhered to the instructions. Since the one who appointed him mentioned a specific individual, the agent is not suspected of lying, as that individual can be subsequently questioned.

הָתָם, כֵּיוָן דְּאִית לֵיהּ תּוֹבֵעַ – מִירְחַת.

The Gemara rejects this proof: **There,** in the mishna, **since** the agent **has a claimant, he is afraid** to lie. In other words, since the one who appointed him specified an individual, the agent presumes that he intends to verify the matter, and therefore he will not risk lying. By contrast, in Rav's case, since it was the priest who volunteered the information that a specific Israelite gave him an already blemished firstborn animal, he is not concerned that the examiner might seek out the Israelite to confirm the actual facts.

אֲמַר רַבִּי יִרְמְיָה בַּר אַבָּא: מְנָא לֵיהּ לִיהוּדָה הָא? אֲנָא בְּגִידּוּל קְבַעְתֵּיהּ, וְגִידּוּל קְבַע בְּדִידֵיהּ. וְהָכִי אֲמַרִי לֵיהּ: נֶאֱמָן יִשְׂרָאֵל לוֹמַר ״בְּכוֹר זֶה נְתַתִּי לַכֹּהֵן בְּמוּמוֹ״.

Upon hearing Rav Yehuda's statement in the name of Rav, **Rabbi Yirmeya bar Abba**[P] **said: From where does Yehuda** know **this** *halakha*? Actually, **I taught this** *halakha* **to Giddul** in Rav's name **and Giddul,** in turn, **taught it to** Rabbi Yehuda. **But** Giddul corrupted my statement, as **this is how I said it to him: An Israelite is deemed credible to say: I gave this firstborn** animal **to a priest with its blemish**[H] already inflicted upon it, and it may be slaughtered and eaten.

יִשְׂרָאֵל, פְּשִׁיטָא! לָא צְרִיךְ, בְּקָטָן וְהִגְדִּיל; מַהוּ דְּתֵימָא: לָא קִים לֵיהּ – קָא מַשְׁמַע לָן.

The Gemara asks: **An Israelite?** It is **obvious** that he is deemed credible to issue this claim, as he has no use for the firstborn animal. The Gemara answers: **No,** this ruling is **necessary,** as it is referring **to** an animal that was **young**[N] when the Israelite gave it to the priest **and it grew older** by the time of his testimony. This ruling is necessary, **lest you say** that as the animal grew older in the interim, perhaps the Israelite **does not recognize it** and mistakenly assumes that it was the animal he gave the priest, when in fact it is a different firstborn animal upon which the priest intentionally caused a blemish. Rabbi Yirmeya bar Abba therefore **teaches us** that the Israelite is trusted to recognize the animal he gave the priest.

בְּסוּרָא מַתְנוּ כְּלִשָּׁנָא בַּתְרָא, בְּפוּמְבְּדִיתָא כְּלִשָּׁנָא קַמָּא, וְהִלְכְתָא: אֲפִילּוּ כְּלִשָּׁנָא קַמָּא.

The Gemara notes: **In Sura, they teach** the *halakha* **in accordance with the latter version,** as stated by Rabbi Yirmeya bar Abba, that an Israelite is deemed credible to testify. **In Pumbedita,** they teach the *halakha* **in accordance with the first version,** as taught by Rav Yehuda, citing Rav, that even a priest is deemed credible if he claims that an Israelite gave him an already blemished firstborn animal. The Gemara concludes: **And the *halakha*** is **in accordance with even the first version.**

NOTES

The latter clause certainly supports him…from so-and-so this is deemed credible – סֵיפָא וַדַּאי מְסַיְּיעָא לֵיהּ...מֵאִישׁ פְּלוֹנִי נֶאֱמָן: It can be inferred from here that Rav Yehuda is also addressing a case where the priest claims he received the firstborn animal from a specific Israelite. If the priest merely mentions an unspecified Israelite, he is not deemed credible, as he could simply claim that he does not remember who it was (Rosh).

No, this ruling is necessary as it is referring to an animal that was young – לָא צְרִיךְ אֶלָּא בְּקָטָן: According to some commentaries, this is referring to the Israelite, not the sheep (Rabbeinu Gershom Meor HaGola). If so, the Gemara means that the Israelite was young when he gave the priest the blemished firstborn animal and testifies as an adult that it is the same blemish from his youth (see *Ketubot* 28a).

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רַפְרָם בְּפוּמְבְּדִיתָא הֲוָה לֵיהּ בּוּכְרָא, וְיָהֲבֵיהּ לֵיהּ לְכֹהֵן בְּלָא מוּמָא, אֲזַל שָׁדָא בֵּיהּ מוּמָא. יוֹמָא חַד חֲלַשׁ בְּעֵינֵיהּ, אַיְיתֵיהּ לְקַמֵּיהּ, אֲמַר לֵיהּ: בְּכוֹר זֶה נָתַן לִי יִשְׂרָאֵל בְּמוּמוֹ. אַרְפְּסִינֵיהּ לְעֵינֵיהּ, חַזְיֵיהּ בַּשְׁקָרֵיהּ, אֲמַר לֵיהּ: לָאו אֲנָא דְּיָהֵיבְתֵּיהּ לָךְ?

In this regard, the Gemara relates that **Rafram,** who resided **in Pumbedita, had a firstborn** animal **and he gave it to a priest** in **an unblemished** state. The priest **went and caused a blemish in it. One day,** Rafram **had an affliction in his eyes,** which rendered it difficult for him to open them. The priest to whom Rafram had given the firstborn animal **brought it before him,** as an expert examiner, for him to deem the animal permitted. The priest **said to him: An Israelite gave me this firstborn** animal **with its blemish** upon it. Rafram **forced his eyes open** and **saw** the animal and **recognized it** [*bashkerei*]L as the one he himself had given the priest. Rafram **said to** the priest: **Is it not I who gave this** firstborn animal **to you?**

וַאֲפִילּוּ הָכִי לָא חָשׁ לָהּ לְמִילְּתָא; הַאי הוּא דַּחֲצִיף, כּוּלֵי עָלְמָא לָא חֲצִיפִי.

The Gemara notes: **And even so,** Rafram **was unconcerned by the matter** of the priest's attempted chicanery, as he maintained that it is only **this** priest **who is impudent,** but **all other** priests **are not impudent.** This scenario did not cause Rafram to discredit any other priest's claim that he received a blemished firstborn animal from an Israelite, as this was an exceptional case. This priest demonstrated extreme impudence by bringing it to be examined by Rafram himself, and therefore one cannot draw conclusions about the behavior of other priests from this incident.

הַהוּא שָׁרוּעַ דַּאֲתָא לְקַמֵּיהּ דְּרַב אַשִׁי. אֲמַר: לְמַאי נִיחוּשׁ לֵיהּ? אִי כֹּהֵן הוּא, אִי יִשְׂרָאֵל הוּא – חֲרִי בְּכוֹר וּמוּמוֹ עִמּוֹ.

§ The Gemara relates that there was **a certain** firstborn animal, **one** of whose eyes **was larger than the other, whose** owner **came before Rav Ashi** to have it deemed fit for slaughter on account of its blemish. Uncertain as to who brought the animal for examination, Rav Ashi **said: For what should we be concerned with regard to this** animal? In a case of such a blemish, **whether it is a priest** who brought it for examination, or **whether it is an Israelite,** there is no concern that the blemish might have been intentionally caused, as **this is** clearly **a firstborn** animal **whose blemish** was already **with it** naturally.

אֲמַר לֵיהּ רָבִינָא לְרַב אַשִׁי: וְדִלְמָא יִשְׂרָאֵל הוּא, וְאָמַר רַב יְהוּדָה: אֵין רוֹאִין בְּכוֹר יִשְׂרָאֵל אֶלָּא אִם כֵּן כֹּהֵן עִמּוֹ!

Ravina said to Rav Ashi: But perhaps it is an Israelite who brought the firstborn animal, **and Rav Yehuda says** that **one may not examine the firstborn** animal **of an Israelite**H **unless a priest is** present **with him** in order to receive the animal if it is established as fit for slaughter. Rav Yehuda is concerned that if the Israelite's firstborn animal is deemed fit for slaughter when no priest is present, the Israelite might improperly use the animal for his own purposes. If so, how can you, Rav Ashi, say that there is no problem if this animal was brought by an Israelite?

אֲמַר לֵיהּ: הָכִי הָשְׁתָּא?! הָתָם, נְהִי דְּקָדָשִׁים בַּחוּץ לָא אָכֵיל – אַמָּמוֹנֵיהּ דִּכְהֵן חֲשִׁיד.

Rav Ashi **said to** Ravina in response: **How can** these cases **be compared? There,** where the presence of a priest is required, it is referring to a case where the halakhic status of the blemish has yet to be determined. Now, **granted** an Israelite **will not** risk **eating sacrificial** meat **outside** the Temple courtyard, as that incurs a penalty of *karet*, and he therefore would have the blemish's status determined by an expert. But **he is suspected with regard to the property of a priest.** Although the Israelite will have the status of the animal confirmed before risking a prohibition that entails *karet*, he might steal the firstborn offering if it is established as fit for consumption.

LANGUAGE

Recognized it [*bashkerei*] – בַּשְׁקָרֵיהּ: Some suggest that this word is based on Iranian words referring to hunting and chasing. Others maintain that it is from a root in Mandaic, an Aramaic dialect, meaning to recognize or to identify.

HALAKHA

One may not examine the firstborn animal of an Israelite, etc. – אֵין רוֹאִין בְּכוֹר יִשְׂרָאֵל וכו׳: One may not examine the firstborn animal of an Israelite unless a priest is present with him. The reason is that there is a concern that if a priest is not present, the Israelite may improperly take a permitted animal for his own purposes. Although one is not suspected of risking incurring *karet* by eating consecrated meat outside of the Temple courtyard, one is suspected of the less egregious sin of theft.

If the Israelite is a pious Sage, his firstborn animal may be inspected even in the absence of a priest. Furthermore, even if the Israelite is not a pious Sage, if the blemish is one that unequivocally renders the animal permitted for slaughter, e.g., it is missing a limb, as the Israelite took it upon himself to have his animal examined, it is assumed that he is a meticulous observer of *halakha*, and therefore there is no need for the presence of a priest (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:3; *Shulḥan Arukh*, *Yoreh De'a* 314:111).

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PERSONALITIES

Rabbi Simlai – רַבִּי שִׁמְלַאי: Rabbi Simlai was a first-generation *amora* of Eretz Yisrael. He originated from Lod and is known to have lived in Neharde'a for a substantial period. Rabbi Simlai was a student of and personal assistant to Rabbi Yehuda Nesia I, and subsequently of Rabbi Yannai.

A few halakhic statements of Rabbi Simlai are quoted in the Talmud, especially the Jerusalem Talmud. He is most famous for his many aggadic expositions. He is also renowned for his debates with heretics.

NOTES

Who attend the synagogue – בְּנֵי הַכְּנֶסֶת: This refers to simple, unlearned individuals who attend the synagogue. In a mishna elsewhere (*Zavim* 3:2), this phrase is used in reference to individuals who eat non-sacred food only in a state of ritual purity; see, however, *Tosafot* on *Nidda* 7a. Others suggest that this means the ten idlers who are found in the local synagogue on a consistent basis and are financed by the community (*Kol Remez*, citing *Megilla* 5a; see 37a).

הָכָא, מִכְּדֵי יָדַע דְּהַאי מוּם מוּבְהָק הוּא, מַאי טַעֲמָא אַתְיוּהּ קַמֵּיהּ רַבָּנַן – מִשּׁוּם כְּבוֹדוֹ דְּחָכָם; עַל כְּבוֹדוֹ דְּחָכָם לָא עָבֵיד, אִיסּוּרָא עֲבַד?

Conversely, **here,** in the case of the animal that had one eye larger than the other, **since** even an Israelite **knows that this is a clear-cut blemish** and the animal is clearly fit for slaughter, **what is the reason he brought** the animal **before the Sages** for examination? He brought it **out of respect for the Sage.** Now, if this Israelite **does not neglect the respect due a Sage,** would **he commit a transgression** and steal the possession of the priest? Certainly not. Therefore, in our case an Israelite would be trustworthy, and the presence of a priest is unnecessary.

מתני׳ הַכֹּל נֶאֱמָנִין עַל מוּמֵי מַעֲשֵׂר.

MISHNA **Everyone is deemed credible** to testify **about the blemishes of** an animal **tithe** offering,[H] even the owner who is the beneficiary of a ruling that it is blemished.

גמ׳ מַאי טַעֲמָא? דְּאִי בָּעֵי שָׁדֵי בֵּיהּ מוּמָא מֵעִיקָּרָא. מִי יָדַע הֵי נָפֵיק?

GEMARA **What is the reason** that even the owner is deemed credible to testify? The reason is **that had he wanted, he could have caused a blemish in it initially,** in a permitted manner, before tithing his animals. The Gemara raises a difficulty: But when he leads his animals out of the gate in order to tithe them, **does he know which** of them **will emerge** as the tenth, that you say he could have initially blemished that specific animal before it assumed the tithe status?

וְכִי תֵּימָא: מַפֵּיק לֵיהּ בְּרֵישׁ עֲשָׂרָה – ״לֹא יְבַקֵּר בֵּין טוֹב לָרָע״ אֲמַר רַחֲמָנָא! אֶלָּא, דְּאִי בָּעֵי שָׁדֵי בֵּיהּ מוּמָא בְּכוּלֵּי עֲדָרֵיהּ.

And if you would say that **he** intentionally **leads** an animal **out as the head of the ten,** i.e., so that it is the last of ten to emerge, one may not do so, as **the Merciful One states: "He shall not search whether it be good or bad"** (Leviticus 27:33), which teaches that the animal tithe may not be led out intentionally but must exit of its own accord. **Rather,** this is the meaning of the Gemara's initial answer: The reason is **that had he wanted, he could have caused a blemish in his entire flock,** in a permitted manner, before leading them through the gate in order to tithe them.

מתני׳ בְּכוֹר שֶׁנִּסְמֵית עֵינוֹ וְשֶׁנִּקְטְעָה יָדוֹ וְשֶׁנִּשְׁבְּרָה רַגְלוֹ – הֲרֵי זֶה יִשָּׁחֵט עַל פִּי שְׁלֹשָׁה בְּנֵי הַכְּנֶסֶת. רַבִּי יוֹסֵי אוֹמֵר: אֲפִילּוּ יֵשׁ שָׁם עֶשְׂרִים וּשְׁלֹשָׁה – אֵינוֹ נִשְׁחָט אֶלָּא עַל פִּי מוּמְחֶה.

MISHNA With regard to **a firstborn** animal **whose eye was blinded**[H] **or whose foreleg was severed or whose hind leg was broken,** all of which obviously render the animal permanently blemished, that animal **may be slaughtered on the basis of** the ruling of **three** regular Jews **who attend the synagogue,** and it does not require a ruling by one of the Sages. **Rabbi Yosei** disagrees and **says: Even if there is** a court of **twenty-three** Sages **there, it may be slaughtered only on the basis of** the ruling of **an expert** in judging blemishes.

גמ׳ רַבִּי שַׁמְלַאי וְרַבִּי יְהוּדָה נְשִׂיאָה, תַּרְוַיְיהוּ מִשְּׁמֵיהּ דְּרַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי אָמְרִי; וְאָמְרִי לָהּ: רַבִּי שַׁמְלַאי וְרַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי תַּרְוַיְיהוּ מִשּׁוּם רַבִּי יְהוּדָה נְשִׂיאָה אָמְרִי: הַתָּרַת בְּכוֹר בְּחוּצָה לָאָרֶץ – עַל פִּי שְׁלֹשָׁה בְּנֵי הַכְּנֶסֶת. אָמַר רָבָא: וּבְמוּמִין מוּבְהָקִין.

GEMARA The Gemara relates that **Rabbi Simlai**[P] **and Rabbi Yehuda Nesia both say in the name of Rabbi Yehoshua ben Levi, and some say** that **Rabbi Simlai and Rabbi Yehoshua ben Levi both say in the name of Rabbi Yehuda Nesia: The permitting of** the slaughter of **a firstborn** animal **outside** of **Eretz** Yisrael, where a firstborn offering is unfit for sacrifice even when the Temple is standing, may be performed **on the basis of** the ruling of **three** regular Jews **who attend the synagogue.**[N] **Rava said: And** this ruling applies specifically in a case **of clear-cut blemishes,** i.e., those blemishes which clearly permit the slaughter of the firstborn animal.

HALAKHA

Everyone is deemed credible to testify about the blemishes of animal tithe offering – הַכֹּל נֶאֱמָנִין עַל מוּמֵי מַעֲשֵׂר: Everyone, even those who are not deemed credible to testify about firstborn offerings, may testify that a blemish found on their animal tithe occurred inadvertently. The reason is that he could have caused blemishes in his entire flock in a permitted manner prior to his becoming obligated to separate the tithe (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:9).

A firstborn animal whose eye was blinded, etc. – בְּכוֹר שֶׁנִּסְמֵית עֵינוֹ וכו׳: If a firstborn animal developed a blemish it must be examined by an expert to determine whether or not that blemish renders the animal permitted for slaughter. In this context, the term expert means one who is a Sage as well as an expert in identifying blemishes, and has received authority to examine blemishes from the *Nasi* of Eretz Yisrael (*Beit Yosef*; see Gra). Even if the blemish is prominent and clearly renders the animal fit for slaughter, it still must be examined and declared permitted by an expert.

If such an expert is not available, as is always the case nowadays, the firstborn animal may be deemed permitted by a group of three laymen who attend the synagogue, i.e., three individuals who are somewhat learned but have no expertise in identifying blemishes. This leniency applies only to prominent blemishes, e.g., a missing limb.

The Rambam lists the three blemishes mentioned in the mishna as prominent blemishes; i.e., one whose eye was blinded or whose foreleg was severed or whose hind leg was broken. The *Shulḥan Arukh* adds a split ear to this list. The *Tur*, citing the Rosh, lists many more blemishes that fall under this category. The Rema adds that one should not object to someone who deems an animal permitted based on the list of blemishes compiled by the *Tur* (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:2; *Shulḥan Arukh*, *Yoreh De'a* 309:2; see Gra).

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מַאי קָא מַשְׁמַע לָן? תָּנֵינָא: בְּכוֹר שֶׁנִּסְמֵית עֵינוֹ וְשֶׁנִּשְׁתַּבְּרָה יָדוֹ וְשֶׁנִּשְׁתַּבְּרָה רַגְלוֹ – הֲרֵי זֶה יִשָּׁחֵט עַל פִּי שְׁלֹשָׁה בְּנֵי הַכְּנֶסֶת!

The Gemara asks: **What is** Rava **teaching us** by this statement? **We** already **learn** this in the mishna: With regard to **a firstborn** animal **whose eye was blinded or whose foreleg was severed or whose hind leg was broken,** that animal **may be slaughtered on the basis of** the ruling of **three** regular Jews **who attend the synagogue.** The mishna is referring to clear-cut blemishes in contemporary times, in the absence of the Temple, when a firstborn animal is unfit to be brought as an offering. What, then, is the novelty of Rava's statement?

אִי מִמַּתְנִיתִין, הֲוָה אָמִינָא: בְּחוּצָה לָאָרֶץ – אֲפִילּוּ מוּמִין שֶׁאֵין מוּבְהָקִין, וְהַאי דְּקָתָנֵי מוּבְהָקִין – לְהוֹדִיעֲךָ כֹּחוֹ דְּרַבִּי יוֹסֵי, קָא מַשְׁמַע לָן.

The Gemara answers: **If** the *halakha* that three regular Jews may permit the slaughter of a firstborn animal is learned **from the mishna** alone, **I would say** that according to the mishna, the power invested in three regular Jews to permit the slaughter of a firstborn animal in the absence of the Temple nowadays, or **outside** of **Eretz** Yisrael during Temple times, applies **even** to a firstborn animal that has **blemishes that are not clear-cut. And** the reason **that** the mishna specifically **teaches** a case of **clear-cut** blemishes is **to convey the far-reaching nature** of the opinion **of Rabbi Yosei,** who requires the examination of an expert even in such a case. Rava therefore **teaches us** that this is not so; rather, the mishna's ruling is referring specifically to a case of clear-cut blemishes.

אָמַר רַב יְהוּדָה אָמַר רַבִּי יִרְמְיָה בַּר אַבָּא, סָפֵק מִשְּׁמֵיהּ דְּרַב סָפֵק מִשְּׁמֵיהּ דִּשְׁמוּאֵל: שְׁלֹשָׁה מַתִּירִין אֶת הַבְּכוֹר בְּמָקוֹם שֶׁאֵין מוּמְחֶה. מַאי קָא מַשְׁמַע לָן? תָּנֵינָא: הֲרֵי זֶה יִשָּׁחֵט עַל פִּי שְׁלֹשָׁה בְּנֵי הַכְּנֶסֶת!

§ **Rav Yehuda says** that **Rabbi Yirmeya bar Abba says** the following *halakha*, but he was **uncertain** whether Rabbi Yirmeya bar Abba said it **in the name of Rav** and **uncertain** whether he said it **in the name of Shmuel: Three** regular Jews **may permit a firstborn** animal with clear-cut blemishes **in a place where there is no expert.** The Gemara asks: **What is** Rav Yehuda **teaching us** by this statement? **We** already **learn** this in the mishna: That animal **may be slaughtered on the basis of** the ruling **of three** regular Jews **who attend the synagogue.**

אִי מִמַּתְנִיתִין, הֲוָה אָמִינָא: בִּמְקוֹם מוּמְחֶה; קָא מַשְׁמַע לָן: בִּמְקוֹם שֶׁאֵין מוּמְחֶה – אִין, בִּמְקוֹם שֶׁיֵּשׁ מוּמְחֶה – לָא.

The Gemara answers: **If** the *halakha* is learned **from the mishna** alone, **I would say** that three laymen may permit a firstborn animal with clear-cut blemishes even **in a place** where there is **an expert.** Rav Yehuda therefore **teaches us** that **in a place where there is no expert, yes,** three laymen may permit it. But **in a place where there is an expert,** three laymen are **not** invested with this power.

אָמַר רַב חִיָּיא בַּר עַמְרָם: שְׁלֹשָׁה מַתִּירִין אֶת הַבְּכוֹר בְּמָקוֹם שֶׁאֵין מוּמְחֶה, שְׁלֹשָׁה מַתִּירִין אֶת הַנֶּדֶר בְּמָקוֹם שֶׁאֵין חָכָם. שְׁלֹשָׁה מַתִּירִין אֶת הַבְּכוֹר בְּמָקוֹם שֶׁאֵין מוּמְחֶה

Rav Ḥiyya bar Amram says: A group of **three** laymen may **permit** a blemished **firstborn** animal **in a place where there is no expert** to consult, and likewise a group of **three** laymen may **dissolve a vow**[B] **in a place where there is no Sage.**[H] The Gemara explains: The ruling that a group of **three** laymen may **permit** a blemished **firstborn** animal **in a place where there is no expert** to consult

BACKGROUND

Dissolution of vows – הַפָּרַת נְדָרִים: The *halakhot* of vows and their nullification by a woman's father or husband are stated in the Torah (see Numbers, chapter 30) and explained in an entire tractate, *Nedarim*. Vows may not only be nullified; one may also request that a Sage dissolve his vow retroactively. Although this *halakha* does not appear explicitly in the Torah, the Sages found allusions to it in the same passage. One who took a vow can request for a single Sage or a court of three laymen to dissolve it. Tractate *Nedarim* deals extensively with the problems that arise in this process. The standard scenario involves a case in which the one who took the vow declares that he did not initially anticipate that it would be so difficult to fulfill the vow, and had he known, he would not have taken the vow in the first place. There is no designated time frame for dissolving one's vows; one can request that his vows be dissolved at any time. There are certain vows that a Sage cannot dissolve, e.g., a vow made to another person, which would require that individual's agreement to dissolve it. In addition, a vow cannot be dissolved if it was taken before a large group and based on their consent.

HALAKHA

Three may dissolve a vow in a place where there is no Sage – שְׁלֹשָׁה מַתִּירִין אֶת הַנֶּדֶר בְּמָקוֹם שֶׁאֵין חָכָם: If one took a vow and subsequently reneged, he may have it dissolved by an expert Sage such as Rav Naḥman, who is both well versed in the traditions of his teachers as well as capable of reaching halakhic conclusions on his own (*Taz*). If such a Sage is not available, his vow may be dissolved by a group of three laymen, provided that they are capable of understanding what they are taught, as well as able to find a justification for the dissolution of vows. Nowadays there are no experts with the capability to independently dissolve vows, and therefore a group of three is necessary (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 4:5; *Shulḥan Arukh*, *Yoreh De'a* 228:1, and see *Pitḥei Teshuva* there).

Perek **V**
Daf **37** Amud **a**

לְאַפּוֹקֵי מִדְּרַבִּי יוֹסֵי; שְׁלֹשָׁה מְפִירִין אֶת הַנֶּדֶר בְּמָקוֹם שֶׁאֵין חָכָם – לְאַפּוֹקֵי מִדְּרַבִּי יְהוּדָה, דְּתַנְיָא: הֲפָרַת נְדָרִים בִּשְׁלֹשָׁה, רַבִּי יְהוּדָה אוֹמֵר: אֶחָד מֵהֶם חָכָם.

is **to the exclusion of** the opinion **of Rabbi Yosei** in the mishna, who prohibits any number of laymen to deem a firstborn animal permitted. The ruling that a group of **three** laymen may **dissolve a vow in a place where there is no Sage** is **to the exclusion of** the opinion **of Rabbi Yehuda, as it is taught** in a *baraita*: **Dissolution of vows** requires a court of **three. Rabbi Yehuda says:** This is the *halakha* only if at least **one of them** is **a Sage.** If no Sage is available, laymen may not dissolve a vow.

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"בְּמָקוֹם שֶׁאֵין חָכָם" – כְּגוֹן מַאן? אָמַר רַב נַחְמָן: כְּגוֹן אֲנָא. "רַבִּי יְהוּדָה אוֹמֵר: אֶחָד מֵהֶן חָכָם" – מִכְּלָל דְּהָנָךְ כֻּלְּהוּ דְּהוּ? אָמַר רָבִינָא: דְּמִסְתַּבְּרִי לֵיהּ וְסָבַר.

Rav Ḥiyya bar Amram stated above that a group of three may dissolve a vow **in a place where there is no Sage.** This indicates that if there is a Sage, he alone may dissolve a vow. The Gemara asks: **Who, for example,** is considered such a Sage? **Rav Naḥman said: For example,** one such as **me.**[N] The *baraita* further stated that **Rabbi Yehuda says:** At least **one of** the three laymen must be **a Sage.** The Gemara asks: Should one conclude **by inference that those** other two members can be **anyone,** even complete ignoramuses? **Ravina said** in explanation: Each member of the group must be one **to whom** the *halakhot* of vows **is explained and he** is able to **comprehend** them.

"רַבִּי יוֹסֵי אוֹמֵר: אֲפִילּוּ יֵשׁ שָׁם עֶשְׂרִים וּשְׁלֹשָׁה" כּוֹ'. אָמַר רַב חֲנַנְאֵל אָמַר רַב: אֵין הֲלָכָה כְּרַבִּי יוֹסֵי. פְּשִׁיטָא, יָחִיד וְרַבִּים הֲלָכָה כְּרַבִּים! מַהוּ דְּתֵימָא: נִמּוּקוֹ עִמּוֹ, קָא מַשְׁמַע לָן.

§ The mishna teaches that **Rabbi Yosei says: Even if there is** a court of **twenty-three** Sages **there,** it may be slaughtered only on the basis of the ruling of an expert. **Rav Ḥananel says** that **Rav says:** The ***halakha*** is **not in accordance with** the opinion of **Rabbi Yosei.** The Gemara challenges: This is **obvious,** as there is a principle that in a dispute between **an individual** Sage **and many** Sages, the ***halakha*** is **in accordance with** the opinion of the **many** Sages. The Gemara answers: Rav's statement is necessary, **lest you say** that Rabbi Yosei is an exception to the principle, as **his reasoning** [***nimmuko***][L] **is with him,** i.e., his logic is sound. Rav Ḥananel therefore **teaches us** that this is not so, and the *halakha* does not follow his opinion.

תִּפְשׁוֹט מֵהָא, דְּהָךְ קַמַּיְיתָא מִשְׁמֵיהּ דִּשְׁמוּאֵל אִיתְּמַר, דְּאִי מִשְׁמֵיהּ דְּרַב – תַּרְתֵּי לָמָּה לִי?

Earlier (36b), the Gemara cited a ruling, which was issued either by Rav or Shmuel, that three regular Jews may deem a firstborn animal permitted in a place where there is no expert, in contrast to the opinion of Rabbi Yosei. The Gemara suggests: **Resolve** that dilemma **from this** statement in the name of Rav, that the *halakha* is not in accordance with the opinion of Rabbi Yosei. It can be inferred from here **that that first,** uncertain ruling **was stated in the name of Shmuel. As, if** it was stated **in the name of Rav, why do I** need **two** identical rulings?

חֲדָא מִכְּלָל דַּחֲבֵירְתָּהּ אִיתְּמַר.

The Gemara answers: This is insufficient proof, as it is possible that Rav did not issue two identical rulings. Rather, **one** ruling **was stated from the other, by inference.** Rav issued only one of these statements explicitly; the other was reported by his students in his name based on an inference from what he had said.

מתני' הַשּׁוֹחֵט אֶת הַבְּכוֹר וְנוֹדַע שֶׁלֹּא הֵרְאָהוּ – מַה שֶּׁאָכְלוּ אָכְלוּ, וְיַחֲזִיר לָהֶם הַדָּמִים. וּמַה שֶּׁלֹּא אָכְלוּ – הַבָּשָׂר יִקָּבֵר, וְיַחֲזִיר אֶת הַדָּמִים.

MISHNA In the case of **one who slaughters a firstborn** animal and sells its meat, **and it was discovered that he did not** initially **show it**[H] to one of the Sages, the *halakha* is that it was actually prohibited to derive any benefit from the meat. In that case, **what** the buyers **ate, they ate, and** the Sages penalized the seller in that **he must return the money to them,** which they paid for the meat that they ate. **And** with regard to **that which they did not eat,** that **meat must be buried, and he must return the money** that they paid for the meat that they did not eat.

וְכֵן הַשּׁוֹחֵט אֶת הַפָּרָה וּמְכָרָהּ, וְנוֹדַע שֶׁהִיא טְרֵפָה – מַה שֶּׁאָכְלוּ אָכְלוּ, וּמַה שֶּׁלֹּא אָכְלוּ – הֵם יַחֲזִירוּ לוֹ אֶת הַבָּשָׂר, וְהוּא יַחֲזִיר לָהֶם אֶת הַדָּמִים. מְכָרוּהוּ לַגּוֹיִם אוֹ הִטִּילוּהוּ לַכְּלָבִים – יְשַׁלְּמוּ דְּמֵי טְרֵפָה.

And likewise, in the case of **one who slaughters a cow and sells it, and it was discovered that it is a *tereifa,***[H] **what** the buyers **ate, they ate, and what they did not eat, they must return the meat to** the seller, who may sell it to a gentile or feed it to the dogs, **and he must return the money to** the buyers. If the buyers **sold it to gentiles or cast it to the dogs,**[H] **they pay** the seller **the value of a *tereifa,*** which is less than the value of kosher meat, and the seller refunds the balance to the buyers.

גמ' תָּנוּ רַבָּנַן: הַמּוֹכֵר בָּשָׂר לַחֲבֵירוֹ וְנִמְצָא בִּשַּׂר בְּכוֹר, פֵּירוֹת וְנִמְצָא טְבָלִים, יַיִן וְנִמְצָא יֵין נֶסֶךְ – מַה שֶּׁאָכְלוּ אָכְלוּ, וְיַחֲזִיר לָהֶם אֶת הַדָּמִים.

GEMARA **The Sages taught** in a *baraita*: In a case where **one sells meat to another and it was discovered** that it is the **meat** of **a firstborn** animal, which was not deemed permitted for consumption by an expert, or if one sells **produce** to another **and it was discovered** that it is **untithed produce,** or if one sells **wine** to another **and it turns out** that it is **wine** that was used for **a libation** in idol worship, the *halakha* is that **what** the purchasers **ate, they ate, and** the seller **reimburses them** all their **money.**

NOTES

Rav Naḥman said: For example, me – אָמַר רַב נַחְמָן כְּגוֹן אֲנָא: The precise meaning of this statement is the subject of dispute. According to the Ramban (*Nedarim* 23a), this is referring to Rabbi Yehuda's statement that the dissolution of vows is valid in a court of three only if at least one of them is a Sage. In this connection, the Gemara explains that in the absence of an ordained Sage, a group of three may be used, provided that one of them is at the very least an expert in *halakha* and can reach halakhic conclusions of his own accord, like Rav Naḥman, despite the fact that he was not ordained.

Others indicate that Rav Naḥman is teaching that even a Sage who is an expert in *halakha*, although not ordained, such as himself, may dissolve vows alone (Rambam). This is apparently Rashi's opinion as well (see *Shita Mekubbetzet HaShalem*). A precise reading of Rav Ḥiyya bar Amram's statement supports this interpretation. With regard to permitting firstborn animals, he states: In a place where there is no expert, whereas with regard to the dissolution of vows, he says: In a place where there is no Sage. This discrepancy indicates that provided that the individual is a Sage, he may dissolve vows alone, even if he is not ordained.

LANGUAGE

His reasoning [*nimmuko*] – נִמּוּקוֹ: Some suggest that this term is a contraction, with an *ayin* missing between the first two letters. If so, it is from the term *omek*, meaning depth, and the actual word is *na'amuko*. The majority of linguists maintain that its source is the Greek **νομικός**, *nomikos*, meaning wise or learned in the law. It is also used in several Greek letters as an epithet for Jewish Sages. According to this opinion, here the term means: One whom the *halakha* follows, i.e., one who knows the Torah's reasoning.

HALAKHA

One who slaughters a firstborn animal and it was discovered that he did not show it – הַשּׁוֹחֵט אֶת הַבְּכוֹר וְנוֹדַע שֶׁלֹּא הֵרְאָהוּ: If one slaughtered a blemished firstborn offering without having had it examined by an expert, and then he sold it and it was eaten by the purchasers, the seller must reimburse them. This is the *halakha* even if it is subsequently revealed that the blemish would have rendered the animal permitted (*Sma*; *Taz*). If the purchasers did not partake of the animal, it must be buried, and they are reimbursed (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:9; *Shulḥan Arukh*, *Yoreh De'a* 310:2 and *Ḥoshen Mishpat* 234:1).

One who slaughters a cow and sells it and it was discovered that it is a *tereifa* – הַשּׁוֹחֵט אֶת הַפָּרָה וּמְכָרָהּ וְנוֹדַע שֶׁהִיא טְרֵפָה: If one slaughtered a cow and sold it and it was discovered to be a *tereifa*, the seller must reimburse the purchasers. With regard to any meat they had not yet consumed, they return it to the seller and he reimburses them. The same applies to any item that is prohibited by Torah law that is sold (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 16:12, 14; *Shulḥan Arukh*, *Yoreh De'a* 119:13 and *Ḥoshen Mishpat* 234:2).

If they sold it to the gentiles or cast it to the dogs – מְכָרוּהוּ לַגּוֹיִם אוֹ הִטִּילוּהוּ לַכְּלָבִים: If purchasers of this *tereifa* meat subsequently sold it to gentiles or cast it to the dogs, they return to the seller the value of the *tereifa* meat, which is less than the value of a kosher animal, and the seller reimburses them for the difference (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 16:13; *Shulḥan Arukh*, *Yoreh De'a* 119:13 and *Ḥoshen Mishpat* 234:2).

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רַבִּי שִׁמְעוֹן בֶּן אֶלְעָזָר אוֹמֵר: דְּבָרִים שֶׁהַנֶּפֶשׁ קָצָה בָּהֶן – יַחֲזִיר לָהֶן אֶת הַדָּמִים, וְשֶׁאֵין הַנֶּפֶשׁ קָצָה בָּהֶם – יְנַכֶּה לָהֶם אֶת הַדָּמִים. וְאֵלּוּ הֵן דְּבָרִים שֶׁהַנֶּפֶשׁ קָצָה בָּהֶן: נְבֵילוֹת וּטְרֵיפוֹת שְׁקָצִים וּרְמָשִׂים. וְאֵלּוּ הֵן דְּבָרִים שֶׁאֵין הַנֶּפֶשׁ קָצָה בָּהֶן: בְּכוֹרוֹת, טְבָלִים, וְיֵין נֶסֶךְ.

Rabbi Shimon ben Elazar says, qualifying this ruling: If he sold them **items from which one is** generally **repulsed, he must reimburse them** all their **money,** as they are presumed to not have derived benefit from the consumption of such items. **But** if he sold them **items from which one is not** generally **repulsed, he deducts for them the value** of the benefit from those items and reimburses them the balance. **And the following are items from which one is** generally **repulsed: Carcasses and *tereifot*, repugnant creatures, and creeping animals. And the following are items from which one is** generally **not repulsed: Firstborn** animals, **untithed produce, and wine** used for **a libation** in idol worship.

בְּכוֹר – וְלֵימָא לֵיהּ: מַאי אַפְסַדְתָּךְ?

The Gemara asks: Why does the seller deduct the value of the meat of **a firstborn** animal eaten by the purchaser and reimburse him the difference? **Let** the purchaser **say to** the seller: **What loss have I caused you** by eating the meat? Had you not sold it to me, you would have had no rights to partake of it, as this is an unblemished firstborn animal from which deriving benefit is prohibited.

לָא צְרִיכָא, כְּגוֹן דְּזָבִין לֵיהּ מִמְּקוֹם מוּמָא, דְּאָמַר לֵיהּ: אִי לָאו דַּאֲכַלְתְּ, הֲוָה מַחֲזֵינָא לֵיהּ וְשָׁרֵי נִיהֲלֵיהּ, כְּרַבִּי יְהוּדָה.

The Gemara answers: **No,** this ruling is **necessary** in a case **where he sold him** a cut of meat **from an area** on the animal that contained **a blemish,** but the seller had not yet brought the animal to be examined and deemed permitted by a Sage. In **that** instance, the seller can **say to** the purchaser: **Had you not eaten** the meat, **I would have shown** the animal to a Sage **and he** would have **deemed it permitted**[H] to me. The Gemara notes that this is **in accordance with** the opinion of **Rabbi Yehuda** (28a), who permits a firstborn animal to be examined and deemed permitted even after it has been slaughtered.

טְבָלִים – הֲוָה מְתַקֵּינְנָא לְהוּ, וַאֲכַלְנָא לְהוּ. יֵין נֶסֶךְ – עַל יְדֵי תַּעֲרוֹבְתָּא, וּכְרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל.

The Gemara adds that with regard to **untithed produce,** although one could claim that the purchaser did not cause a loss to the seller, as untithed produce is prohibited for consumption, the seller can say to the purchaser: Had you not eaten my produce, **I would have remedied it,** i.e., separated its tithes, **and eaten it.** Similarly, with regard to **wine** used for **a libation** in idol worship, which is also prohibited to be consumed, this is referring to a seller who sold it **in a mixture** of permitted wine. In this case, had the purchaser not consumed the wine mixture, the seller could have derived benefit from it, **in accordance with** the opinion of **Rabban Shimon ben Gamliel.**

דְּתַנַן: יֵין נֶסֶךְ שֶׁנָּפַל לַבּוֹר – כּוּלּוֹ אָסוּר בַּהֲנָאָה, רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: יִמָּכֵר כּוּלּוֹ לְגוֹיִם חוּץ מִדְּמֵי יֵין נֶסֶךְ שֶׁבּוֹ.

As we learned in a mishna (*Avoda Zara* 74a): In the case of **wine** used for **a libation** in idol worship **that fell into** a wine **cistern,**[H] it is **prohibited** to **derive benefit** from **all** the wine in the cistern, even if the volume of the wine used for a libation was small in comparison to the volume of the rest of the wine in the cistern. **Rabban Shimon ben Gamliel says: All of the** wine in the cistern **may be sold to a gentile,** and the money paid for it is permitted, **except for the value of the wine** used for **a libation** that is **in it.**

הדרן עלך כל פסולי המוקדשין

HALAKHA

I would have shown it to a Sage and he would have deemed it permitted – הֲוָה מַחֲזֵינָא לֵיהּ וְשָׁרֵי נִיהֲלֵיהּ: If one slaughters a blemished firstborn animal without having had it examined by a Sage, even if the blemish was subsequently examined, the animal is still prohibited. This is in accordance with the opinion of Rabbi Meir, who disagrees with Rabbi Yehuda in the mishna on 28a (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 3:4; *Shulḥan Arukh*, *Yoreh De'a* 310:1).

Wine used for a libation in idol worship that fell into a cistern – יֵין נֶסֶךְ שֶׁנָּפַל לַבּוֹר: Wine used for a libation in idol worship that became mixed with permitted wine renders the entire mixture irrevocably prohibited. A mixture of nondescript wine of a gentile and permitted wine may be sold to a gentile. In such a case, the profit made from the portion of the gentile's wine is cast into the sea, i.e., one may not derive benefit from it, and the remaining profit belongs to the Jewish seller. This *halakha* is in accordance with the ruling of Rav Naḥman in *Avoda Zara* 74a (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 16:28; *Shulḥan Arukh*, *Yoreh De'a* 134:1).

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Summary of **Perek V**

Sacrificial animals that develop a blemish retain a degree of their initial sanctity even upon their redemption. Consequently, they may not be worked, nor may their wool be shorn. Nevertheless, they may be sold in the manner of non-sacred animals. This is not considered a degradation of sacrificial meat, as the proceeds accrue to the Temple treasury. By contrast, a blemished firstborn animal and animal tithe, although also consecrated animals, are the property of the priests or of their owners, respectively, not of the Temple treasury. Since the Temple treasury will not profit from these animals' redemption, their sale in the manner of non-sacred animals is prohibited.

In this vein, the Gemara analyzed the Torah's prohibition against selling the animal tithe. The Gemara concluded that this prohibition applies only while the animal is alive. By Torah law, once it has died, the tithe may be sold. The Sages prohibited its sale even in such a case, except if the sale is performed through inclusion of other parts of the animal or if it is for the benefit of orphans.

When a firstborn animal develops a blemish on account of which it becomes permitted for slaughter, its meat may be eaten like non-sacred meat. Although this matter is subject to a dispute in a mishna, the Gemara concludes that a priest may share the meat of a permitted firstborn animal with anyone, including a gentile. Nevertheless, the firstborn animal retains a measure of sanctity, in that it may not be worked, nor may its wool be shorn. Similarly, its hide may not be flayed in such a manner that renders it usable as a vessel, for example, as a waterskin, as this constitutes a degradation of sacred meat.

It is prohibited by Torah law to intentionally cause a blemish in a firstborn animal. This applies both to a blemish that was caused directly and to one that was caused indirectly. The Sages discussed whether or not this prohibition applies to an already blemished firstborn animal, and whether it extends to a case where a blemish must be caused in a firstborn for medical purposes. The Gemara concluded that the prohibition does not apply in either case, and that one who causes a blemish for medical purposes may slaughter the animal on account of that blemish.

The Sages penalized one who intentionally caused a blemish in a firstborn animal by rendering it prohibited for him to slaughter the animal on account of that particular blemish. The Gemara concluded that in such a case, if the animal subsequently developed another blemish, it may be slaughtered on account of the second blemish. Similarly, the Sages' penalty applies only to the individual who caused the blemish. If that person dies, the penalty is not passed on to his children.

Furthermore, the penalty that the Sages imposed applies only to one who intentionally caused the blemish, including one who did so in an indirect manner, as well to as a case in which a child or gentile acted with the knowledge of a priest. But if one

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caused the blemish while defending himself against a firstborn animal that was pursuing him, the animal may be slaughtered on account of that blemish.

Although priests are not suspected of improperly slaughtering unblemished firstborn animals, they are suspected of causing blemishes in them to render them permitted for slaughter. Consequently, the Sages decreed that a priest, whether he is learned or an ignoramus, is not deemed credible to testify about a blemish on his firstborn animal. Instead, an independent individual is required. Nevertheless, only the priest who owns the firstborn animal is suspect; according to some, this includes a priest in the employ of an Israelite. Another priest is deemed credible to testify about the blemish of a firstborn animal of a fellow priest, and there is no concern about collusion. Even the priestly owner's children are valid witnesses, but not his wife, as she is considered one and the same as her husband.

There are instances where a priest is deemed credible to testify about his own firstborn animal, e.g., if he claims that he had the blemish shown to a specific expert who declared the animal fit for slaughter. Additionally, only priests are suspected of lying about their firstborn animals. An Israelite is deemed credible to testify about his own firstborn animal, as well as about his animal tithes. The reason for the *halakha* in the case of an Israelite's animal tithes is that he could have caused blemishes in his entire flock in a permitted manner prior to the obligation of tithes taking effect.

Ideally, a firstborn animal is deemed permitted for slaughter only based on the ruling of an expert. If an expert is not available, three laymen may permit it in his stead. This dispensation applies only in cases of clear-cut blemishes; less obvious blemishes require the ruling of an expert. The chapter concluded with a discussion of cases in which one slaughtered an animal that had not been permitted by an expert and then sold the meat. In such a case, the meat must be buried, and the seller is required to reimburse the purchasers.

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Introduction to **Perek VI**

All the firstborn males that are born of your herd and of your flock you shall sanctify to the Lord your God; you shall do no work with the firstborn of your ox, nor shear the firstborn of your flock. You shall eat it before the Lord your God year by year in the place that the Lord shall choose, you and your household. And if there be any blemish therein, lameness, or blindness, any ill blemish whatsoever, you shall not sacrifice it to the Lord your God. You shall eat it within your gates; the impure and the pure may eat it alike, as the gazelle, and as the hart.

(Deuteronomy 15:19–22)

And whoever brings a sacrifice of peace offerings to the Lord in fulfillment of a vow clearly uttered, or for a gift offering, of the herd or of the flock, it shall be perfect to be accepted; there shall be no blemish therein. Blind, or broken, or maimed, or with a cyst, or scabbed, or with a skin eruption, you shall not sacrifice these to the Lord, nor make an offering by fire of them upon the altar to the Lord. Either a bull or a lamb that has anything too long or too short, that you may sacrifice for a gift offering; but for a vow it shall not be accepted. That which has its stones bruised, or crushed, or torn, or cut, you shall not sacrifice to the Lord; neither shall you do this in your land.

(Leviticus 22:21–24)

This chapter includes a list of various blemishes on account of which it is permitted to slaughter a firstborn outside the Temple, and on account of which one may redeem other sacrificial animals. Most of the blemishes are learned by tradition, not derived from verses, although there are disputes among the Sages with regard to some of them. The discussions in this chapter focus on questions involving the basic definitions of these blemishes.

The verse states that a firstborn with a blemish is unfit to be sacrificed and may be slaughtered outside the Temple: "If there be any blemish therein, lameness, or blindness, any ill blemish whatsoever." It is necessary to clarify exactly what blemishes are included in this clause. What is an "ill blemish," and is this broad category limited to cases similar to the examples of "lameness, or blindness"?

Elsewhere the Torah provides a list of blemishes that disqualify all animals from sacrifice, which raises the question of the relationship between the two passages. Are there blemishes that disqualify a firstborn from being sacrificed on the altar but that do not render it permitted to slaughter it outside the Temple?

Another issue that arises with regard to the blemishes mentioned in the Torah is defining them. Since some of the blemishes listed in the verses are detailed and specific, while others are more general, it is necessary to establish which blemishes are classified as such and which are not.

Another matter that requires clarification is the status of temporary blemishes. Do such blemishes disqualify the offering permanently or only for as long as they are present? May one redeem an animal and slaughter it outside the Temple while it has a temporary blemish? Furthermore, how does one determine whether a blemish is temporary or permanent?

Apart from the blemishes mentioned in the Torah, there are certain physical conditions that resemble the blemishes specified in the verses both in appearance and

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nature and whose halakhic status must be determined. Another question is whether blemishes that are not visible are considered blemishes for the purposes of this *halakha*. Likewise, what is the *halakha* with regard to animals that people find repulsive and disgusting and yet are not considered blemished according to the Torah's definition?

These questions establish the major topics of this chapter, which is the main source in the Talmud for the *halakhot* of blemishes of sacrificial animals.

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מתני׳ עַל אֵלּוּ מוּמִין שׁוֹחֲטִין אֶת הַבְּכוֹר: נִפְגְּמָה אָזְנוֹ מִן הַחַסְחוּס, אֲבָל לֹא הָעוֹר. נִסְדְּקָה, אַף עַל פִּי שֶׁלֹּא חָסְרָה. נִיקְּבָה מִלֹּא כַּרְשִׁינָה, אוֹ שֶׁיְּבֵשָׁה. אֵיזֶהוּ יְבֵשָׁה? כָּל שֶׁתְּנֵקֵב וְאֵינָהּ מוֹצִיאָה טִיפַּת דָּם. רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם אוֹמֵר: יְבֵשָׁה – שֶׁתְּהֵא נִפְרֶכֶת.

MISHNA

For these blemishes, one may slaughter the firstborn animal outside the Temple: If the firstborn's **ear was damaged** and lacking **from the cartilage** [***haḥasḥus***],[HL] **but not** if **the skin** was damaged;[N] and likewise, if the ear **was split, although it is not lacking;** or if the ear **was pierced** with a hole **the size of a bitter vetch,**[B] which is a type of legume; **or** if it was an ear **that** is **desiccated. What is a desiccated** ear that is considered a blemish? It is **any** ear **that** if **it is pierced it does not discharge a drop of blood. Rabbi Yosei ben HaMeshullam says: Desiccated** means that the ear is so dry **that it will crumble** if one touches it.

גמ׳ אַמַּאי? פִּסֵּחַ וְעִוֵּר כְּתִיב!

GEMARA

With regard to the blemishes mentioned in this mishna and in the subsequent *mishnayot*, the Gemara asks: **Why** is it permitted to slaughter and eat a firstborn that sustained these blemishes? Only **a lame** animal **and a blind** animal are **written** in the verse that discusses this *halakha*. That verse states: "And if there be any blemish therein, lameness, or blindness, any ill blemish whatsoever, you shall not sacrifice it to the Lord your God. You shall eat it within your gates" (Deuteronomy 15:21–22).

כְּתִיב נַמִי: ״כִּי יִהְיֶה בּוֹ מוּם״. וְאֵימָא: ״כִּי יִהְיֶה בּוֹ מוּם״ – כְּלָל, ״פִּסֵּחַ אוֹ עִוֵּר״ – פְּרָט, כְּלָל וּפְרָט – אֵין בַּכְּלָל אֶלָּא מַה שֶּׁבַּפְּרָט; פִּסֵּחַ וְעִוֵּר – אִין, מִידֵי אַחֲרִינָא – לָא!

The Gemara answers: **It is also written** in the beginning of the verse: "**If there be any blemish therein,**" which indicates that other blemishes are also included. The Gemara asks: **But** why not **say** that the phrase "**if there be any blemish therein**" is **a generalization,** while "**lameness, or blindness**" is **a detail.** According to the principles of midrashic exegesis, if **a generalization and a detail**[B] are mentioned, **the generalization includes only that which is** specified **in the detail.** Therefore, it should be concluded that in the event of **lameness and blindness, yes,** one may slaughter the firstborn, but in the event of **another matter,** one may **not** slaughter it.

NOTES

If the ear was damaged and lacking from the cartilage but not if the skin was damaged – נִפְגְּמָה אָזְנוֹ מִן הַחַסְחוּס אֲבָל לֹא הָעוֹר: The reason for this is that damage to the cartilage will not heal and is therefore a permanent blemish, while damage to the skin will heal and is therefore a temporary blemish (Rashi).

BACKGROUND

Bitter vetch – כַּרְשִׁינָה: The bitter vetch, also known as ervil or *Vicia ervilia*, is an annual plant in the legume family that reaches a height of between 10 and 50 cm. The seeds of the bitter vetch are brown and are either spherical or polygonal with a diameter of between 3.5 and 5.5 mm. Like other legumes, the bitter vetch has a high nutritional value. While the bean is easily digested by animals and is usually used for animal feed, it is fit for human consumption and was eaten under difficult economic conditions or during famine.



Bitter vetch

A generalization and a detail – כְּלָל וּפְרָט: When a generalization in the Torah is followed by its details, the assumption is that the generalization refers only to that which was specified in the details. For example, the Torah states, regarding which animals may be brought for burnt offerings: "From animals, from cattle, and from sheep" (Leviticus 1:2). "Animals" is a general term that includes cattle and sheep. Since these details were listed after the generalization, it may be derived that only cattle and sheep, not other animals, may be sacrificed as burnt offerings. Why, then, is the generalization necessary? It is to prevent drawing an analogy from cattle and sheep to include other animals.

HALAKHA

If the ear was damaged and lacking from the cartilage – נִפְגְּמָה אָזְנוֹ מִן הַחַסְחוּס: The following blemishes render the animal unfit for sacrifice and render the firstborn animal permitted for slaughter: (1) Damage to the cartilage of the ear such that if one passes his fingernail over the ear of the animal it can enter the area of the damage. If the skin next to the cartilage is split or pierced, it is not considered a blemish. (2) Piercing of the cartilage of the ear that creates a hole equal in size to a bitter vetch, whether the hole is round or long. (3) Desiccation of the ear to the point that if it is pierced no blood will emerge. These unequivocal blemishes render it permitted for a firstborn animal to be slaughtered even nowadays when there are no experts to examine the blemishes, and it is sufficient that the blemish be identified by three laymen (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:2–3; *Shulḥan Arukh*, *Yoreh De'a* 309:2).

LANGUAGE

Cartilage [*ḥasḥus*] – חַסְחוּס: Cartilage here refers to body parts that are not soft like flesh or skin, and are similar to soft bone. By modern scientific definition, this would include three types of connective tissue: Hyaline cartilage, such as that which exists in the trachea; fibrocartilage, which is found in some ligaments; and elastic cartilage, which forms the outer ear. In this context it is the latter type that is referred to.

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NOTES

Blemishes…that cause an animal to desist from its normal labor – מוּמִין...וּבוֹטֵל מִמְּלַאכְתּוֹ: According to Rabbeinu Gershom, the injury causes the animal to desist from the labor that it usually performs. Rashi explains that the injury prevents the limb from functioning properly, i.e., the lame animal cannot walk with the injured leg and the blind animal cannot see with its eye that does not function. This is not so in the case of a damaged ear with which the animal can still hear (see *Kiddushin* 24b).

Animals with external gums [*ḥutin*] that were damaged and lacking or that were scratched [*veshenigmemu*] – חוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ וְשֶׁנִּגְנְּמוּ: According to Rashi, the word *ḥutin* refers to the gums, and *nigmemu* means that there is a scratch in the gum without any part of the gum missing. Others explain that it refers to the teeth, and *nigmemu* means that they were broken while the roots remain (Rabbeinu Gershom Meor HaGola on 34b). The Rambam's Commentary on the Mishna offers a third explanation: *Ḥutin* refer to two small tongues of flesh that are found deep in the palate close to the mouth of the pharynx, of which there are outer ones that are more visible and inner ones that cover the opening of the trachea. The word *nigmemu* means that they shrank.

HALAKHA

External gums that were damaged – חוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ: If the external gums of an animal were pierced or damaged, even if part of the gums remained, or if they were scratched, it is considered a blemish. Likewise, if the inner gums were extracted, it is considered a blemish, since when the animal opens its mouth and whinnies, they are visibly missing (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:3).

LANGUAGE

Were scratched [*nigmemu*] – נִגְנְּמוּ: This word is used in the Hebrew of the rabbinic Sages to denote cuts or scratches, generally referring to cuts on the outer layer of an item. The same word also exists in Aramaic with an identical meaning.

״כֹּל מוּם רָע״ חָזַר וְכָלַל, כְּלָל וּפְרָט וְכְלָל – אִי אַתָּה דָּן אֶלָּא כְּעֵין הַפְּרָט, מַה הַפְּרָט מְפוֹרָשׁ – מוּמִין שֶׁבְּגָלוּי וְאֵינָן חוֹזְרִין, אַף כֹּל – מוּמִין שֶׁבְּגָלוּי וְאֵינָן חוֹזְרִין.

The Gemara answers: By subsequently stating: **"Any ill blemish," it then generalized** again. Consequently, it is **a generalization and a detail and a generalization,**[B] represented in the phrases "any blemish," "lameness or blindness," and "any ill blemish," and according to the principles of midrashic exegesis, **you may deduce** that the verse is referring **only** to items **similar to the detail. Just as** the items mentioned in **the detail,** i.e., in the phrase "lameness or blindness," are clearly **defined as blemishes that are exposed and do not regenerate, so too, all blemishes that are exposed and do not regenerate** are considered blemishes with regard to a firstborn.

וְאֵימָא: מַה הַפְּרָט מְפוֹרָשׁ – מוּמִין שֶׁבְּגָלוּי וּבוֹטֵל מִמְּלַאכְתּוֹ וְאֵינוֹ חוֹזֵר, אַף כֹּל – מוּמִין שֶׁבְּגָלוּי, וּבוֹטֵל מִמְּלַאכְתּוֹ, וְאֵינוֹ חוֹזֵר. אַלְּמָה תְּנַן: נִפְגְּמָה אָזְנוֹ מִן הַחַסְחוּס וְלֹא מִן הָעוֹר?

The Gemara suggests: **But say** instead that **just as** the items mentioned in **the detail,** i.e., in the phrase "lameness or blindness," are clearly **defined as blemishes that are exposed and** that cause an animal to **desist from its** normal **labor,**[N] **and** they are blemishes that **do not regenerate, so too, all blemishes that are exposed and** that cause an animal to **desist from its labor and do not regenerate** are included in this *halakha*. If so, a blemish that does not fit these criteria would not render the firstborn permitted to be slaughtered. **Why** then **did we learn** in the mishna that if the firstborn's **ear was damaged** and lacking **from the cartilage, but not** if it is lacking **from the skin,** it is considered a blemish, despite the fact that this does not cause the animal to desist from its labor?

״כֹּל מוּם רָע״ – רִיבּוּיָא הוּא. אִי הָכִי, מוּמִין שֶׁבַּסֵּתֶר נַמִּי! אַלְּמָה תְּנַן: חוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ וְשֶׁנִּגְנְּמוּ, וְהַפְּנִימִיּוֹת שֶׁנֶּעֱקְרוּ;

The Gemara answers: The word "any" in **"any ill blemish" is an amplification,** and it includes even blemishes that are different from those defined by the detail. The Gemara challenges: **If so, blemishes that are hidden** should **also** be included. **Why** then **did we learn** in the mishna (39a) that animals with **external gums that were damaged**[H] and lacking **or that were scratched** [***veshenigmemu***][NL] **and** likewise animals with **internal** gums **that were** entirely **extracted** are considered blemished?

BACKGROUND

A generalization and a detail and a generalization – כְּלָל וּפְרָט וְכְלָל: When a generalization in the Torah is followed by one or more details, and they, in turn, are followed by another generalization, application of the *halakha* under discussion is limited to items somewhat similar to the detail. For example, the Torah states with regard to money used to redeem the second tithe: "You shall spend the money on whatever you desire; on cattle, sheep, wine, strong drink, or whatever you wish" (Deuteronomy 14:26). The Talmud derives that tithe money may be spent only on items somewhat similar to the items detailed in the verse: Cattle, sheep, wine, and strong drink. The resultant principle is that one may spend the tithe money on items that derive sustenance from the ground even if they did not actually grow in the ground.

Perek **VI**
Daf **37** Amud **b**

נֶעֱקְרוּ – אִין, נִפְגְּמוּ וְנִגְנְּמוּ – לָא! בָּעֵינָא ״מוּם רָע״, וְלֵיכָּא. אִי הָכִי, מוּם עוֹבֵר נַמִּי! אַלְּמָה תְּנַן: וְלֹא מִן הָעוֹר?

It can be inferred that if the internal gums **were extracted** then **yes,** one may slaughter the firstborn, but if they **were** merely **damaged or** they **were scratched,** one may **not,** since it is a hidden blemish. The Gemara answers: **I require** that it be **an "ill blemish,"** which must be exposed and degrading, **and** a hidden blemish **is not** considered such an "ill blemish." The Gemara asks: **If so,** that all blemishes are included by the words: "Any ill blemish," aside from hidden blemishes, **a temporary blemish** should **also** render it permitted for the firstborn to be slaughtered. **Why** then **did we learn** in the mishna: If the firstborn's ear was damaged and lacking from the cartilage it may be slaughtered, **but not** if it is damaged and lacking **from the skin,** since it is a temporary blemish?

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מוּם עוֹבֵר סְבָרָא הוּא: הָשְׁתָּא מִיפְּרַק לָא פָּרְקִינַן עִלָּוֵיהּ – מִשְׁחָט שָׁחֲטִינַן עִלָּוֵיהּ? דְּתַנְיָא: ״וְאִם כָּל בְּהֵמָה טְמֵאָה אֲשֶׁר לֹא יַקְרִיבוּ מִמֶּנָּה קָרְבָּן לַה׳״ – בְּבַעֲלֵי מוּמִין הַכָּתוּב מְדַבֵּר.

The Gemara answers: **A temporary blemish** is not excluded by the exegesis but **is** based on **logical reasoning: Now,** if **we do not** even **redeem** an offering **due to** a temporary blemish, **will we slaughter** a firstborn outside the Temple, for which redemption is not performed, **due to** a temporary blemish? The Gemara explains the source for this assertion that an offering is not redeemed because of a temporary blemish. **As it is taught** in a *baraita*: **“And if it be any impure animal, of which they may not bring an offering to the Lord”** (Leviticus 27:11). **The verse is speaking of** ritually pure animals with **blemishes.**

אַתָּה אוֹמֵר בְּבַעֲלֵי מוּמִין שֶׁנִּפְדּוּ הַכָּתוּב מְדַבֵּר? אוֹ אֵינוֹ אֶלָּא בִּבְהֵמָה טְמֵאָה מַמָּשׁ! כְּשֶׁהוּא אוֹמֵר: ״וְאִם בַּבְּהֵמָה הַטְּמֵאָה״ – הֲרֵי בְּהֵמָה טְמֵאָה אָמוּר, הָא מַה אֲנִי מְקַיֵּים ״אֲשֶׁר לֹא יַקְרִיבוּ מִמֶּנָּה״? הֱוֵי אוֹמֵר: זֶה בַּעֲלֵי מוּמִין שֶׁנִּפְדּוּ.

The *baraita* continues: **Do you say that the verse is speaking of** animals with **blemishes that were redeemed, or** is it referring **only** to **an actual impure animal,** such as a donkey or a horse that was consecrated; but with regard to a kosher animal, perhaps its consecrated status cannot be removed by redemption even if it was blemished? **When** the verse **states: “And if it be of an impure animal”** (Leviticus 27:27), **a non-kosher animal is mentioned. So how do I realize** the meaning of: **“Of which they may not bring an offering”? You must say** that **this** is referring to **blemished** animals **that were redeemed,** indicating that redemption is permitted.

יָכוֹל יִפָּדוּ עַל מוּם עוֹבֵר? תַּלְמוּד לוֹמַר: ״אֲשֶׁר לֹא יַקְרִיבוּ מִמֶּנָּה קָרְבָּן לַה׳״ – מִי שֶׁאֵינָהּ קְרֵיבָה כָּל עִיקָּר, יָצְתָה זוֹ שֶׁאֵינָהּ קְרֵיבָה הַיּוֹם אֶלָּא לְמָחָר.

The *baraita* concludes: One **might** have thought that offerings **may be redeemed due to a temporary blemish**[H] that they sustained. Therefore, **the verse states: “Of which they may not bring an offering to the Lord”** (Leviticus 27:11). This teaches that an animal **that is not sacrificed at all** is redeemed, which **excludes this** animal that has a temporary blemish, **which is not sacrificed today,** but **rather** may be sacrificed **tomorrow.**

אִיבָּעֵית אֵימָא: אִם כֵּן, פִּסֵּחַ וְעִוֵּר לָמָּה לִי?

The Gemara comments: **If you wish, say** a different explanation as to why a temporary blemish is not included in the amplification of the verse: “Any ill blemish”: **If so,** that even a temporary blemish permits its slaughter, **why do I** need the verse to mention **a lame** animal **and a blind** animal? It would have sufficed to state: “Any ill blemish.” Rather, the verse excludes a temporary blemish that is unlike these two blemishes, which are permanent.

״נִסְדָּקָה אַף עַל פִּי שֶׁלֹּא חָסְרָה״. תָּנוּ רַבָּנַן: הַסֶּדֶק – כָּל שֶׁהוּא, הַפְּגִימָה – בֵּין בִּידֵי אָדָם בֵּין בִּידֵי שָׁמַיִם. מִכְּלָל דְּסֶדֶק בִּידֵי שָׁמַיִם לָא?

§ The mishna teaches: If the ear of the firstborn animal **was split, although it is not lacking,** one may slaughter the animal outside the Temple. With regard to this, **the Sages taught** in a *baraita*: **The split** that permits the animal to be slaughtered is one of **any size.** With regard to **the damage, whether** it was done **by the hand of a person or by the hand of God,** it may be slaughtered. The Gemara asks: Should it be derived **by inference that** with regard to **a split,** if it was caused **by the hand of God** it is **not** considered a blemish? That also should be considered an obvious blemish and render the animal permitted for slaughter.

אֶלָּא: סֶדֶק וּפְגִימָה – בֵּין בִּידֵי שָׁמַיִם בֵּין בִּידֵי אָדָם. וְכַמָּה שִׁיעוּר פְּגִימָה? כְּדֵי שֶׁתַּחְגּוֹר בָּהּ צִיפּוֹרֶן.

The Gemara answers: **Rather,** the *baraita* should be interpreted as follows: The animal may be slaughtered for a split of any size, and with regard to **a split and damage, whether** it was done **by the hand of God or by the hand of a person,** the animal may be slaughtered. **And what is the measure of the damage**[H] that is considered a blemish? It must be large enough **that a fingernail will be retained** [***shetaḥgor***][L] **on it,** i.e., if one passes his fingernail over the ear of the animal it can enter the area of the damage.

״נִקְּבָה מִלְּא״ וכו׳. תָּנוּ רַבָּנַן, כַּמָּה נְקִיבַת הָאוֹזֶן – מִלְּא כַּרְשִׁינָה. רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: בְּכַעֲדָשָׁה. וְאֵיזוֹ הִיא יְבֵשָׁה – שֶׁאִם תִּינָּקֵב וְאֵינָהּ מוֹצִיאָה טִיפַּת דָּם. רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם אוֹמֵר: יְבֵשָׁה כְּדֵי שֶׁתְּהֵא נִפְרֶכֶת.

§ The mishna stated that if the ear of a firstborn animal **was pierced** with a hole **the size of** a bitter vetch, the animal is slaughtered because of it. With regard to this, **the Sages taught** in a *baraita*: **How large** must **the piercing of the ear** be? It must be **the size of a *karshina*.**[H] **Rabbi Yosei, son of Rabbi Yehuda, says: Like** the size of **a lentil,**[B] which is slightly smaller. **And what is a desiccated** ear that is considered a blemish? It is an ear **that if it is pierced, it does not discharge a drop of blood. Rabbi Yosei ben HaMeshullam says: Desiccated** means that the ear is **so** dry **that it will crumble** if one touches it.

HALAKHA

One might have thought that offerings may be redeemed due to a temporary blemish – יָכוֹל יִפָּדוּ עַל מוּם עוֹבֵר: Sacrificial animals that sustained a temporary blemish may not be sacrificed and may not be redeemed (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe’aḥ* 2:6).

And what is the measure of the damage – וְכַמָּה שִׁיעוּר פְּגִימָה: The cartilage of the ear of an animal that was damaged sufficiently that a fingernail will be retained on it is considered a blemish (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:2–3; *Shulḥan Arukh*, *Yoreh De’a* 309:2).

The size of a *karshina* – מִלְּא כַּרְשִׁינָה: If the cartilage of the ear was pierced with a hole, whether the hole is round or long, if the hole is the size of a bitter vetch it is considered a blemish. This is in accordance with the explanation of the statement of Rav Huna by the Rambam that the bitter vetch need not be able to enter and exit the hole (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:2–3 and *Or Same’aḥ* there; *Shulḥan Arukh*, *Yoreh De’a* 309:2).

LANGUAGE

Will be retained [*taḥgor*] – תַּחְגּוֹר: The verb retained [*ḥagar*] as employed here has a different connotation than in the Torah, where it refers to tying, such as fastening a weapon. Here the word derives from the Aramaic, where it is related to the word lame [*ḥiger*], i.e., one who cannot place both feet down at once. Rashi explains that the verb form *ḥagar* means to halt.

BACKGROUND

Lentil – עֲדָשָׁה: Lentils mentioned in the Talmud generally refer to the red lentil, whose average size is a diameter of 4 mm. The size of a bitter vetch is slightly larger, between 3.5 and 5.5 mm.

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LANGUAGE

Palm thorn [*sol*] – סוֹל: A *sol* is a thorn or a spike. A similar form is found in the biblical word *silon* (see Ezekiel 28:24). It may refer specifically to the thorns that grow on palm fronds, for which there is a similar word in Arabic, سلاء, *sullā'*.

BACKGROUND

Thorn – סִירָה: The *sira*, or thorn, that is mentioned in the Bible is identified today with the thorny burnet, *Sarcopoterium spinosum*, of the rose family, Rosaceae. A small bush 30–60 cm high, it is tangled and thorny. It is commonly found in the hilly areas north of Beersheba, covering large areas on the peripheries of groves and places where thickets are found. The plant has thorny leaves with distinctive bracts surrounding small reddish flowers.



Thorny burnet

Awl – מַרְצֵעַ:



Roman stitching awl

תָּנָא: קְרוֹבִין דִּבְרֵיהֶן לִהְיוֹת שָׁוִין. דִּבְרֵי מִי דִּבְרֵיהֶן דְּמַאן? אִילֵימָא דְּתַנָּא קַמָּא וְרַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם – טוּבָא אִיכָּא! אֶלָּא דְּתַנָּא קַמָּא וְרַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה.

A Sage **taught: Their statements are close to being identical** in practice. The Gemara asks: **The statements of whom** are close to being identical? **If we say** that he is referring to the statements **of the first *tanna* and Rabbi Yosei ben HaMeshullam** with regard to a desiccated ear, **there is a significant** difference between these two opinions. One says it is determined by whether blood emerges, while the other holds it is based on whether it crumbles. **Rather,** he is referring to the statement **of the first *tanna* and** the statement of **Rabbi Yosei, son of Rabbi Yehuda,** as a *karshina* and a lentil are almost identical in size.

כַּעֲדָשָׁה אִין, בְּצִיר מִכַּעֲדָשָׁה לָא? וּרְמִינְהִי: ״מַרְצֵעַ״ – אֵין לִי אֶלָּא מַרְצֵעַ, מִנַּיִן לָרִבּוֹת הַסּוֹל וְהַסִּירָה וְהַמַּחַט וְהַמַּקְדֵּחַ וְהַמַּכְתֵּב?

The Gemara asks with regard to the statement of Rabbi Yosei, son of Rabbi Yehuda: If the ear was pierced with a hole **like** the size of **a lentil,** then **yes,** it is considered a blemish, but if it was pierced with a hole **less than** the size **of a lentil,** then is it **not** considered a blemish? **And** one can **raise a contradiction** from a *baraita*: The Torah provides a description of the process by which a Hebrew slave who has already completed his six years of servitude may continue on as a slave of his master: "And you shall take the **awl** and put it through his ear and in the door" (Deuteronomy 15:17). From this verse, **I have** derived **only** that **an awl** can be used. **From where** do I know **to include the palm thorn** [*hassol*],[L] **a thorn,**[B] **a needle, and a gimlet, and a stylus** for writing on wax as valid tools for piercing his ear?

תַּלְמוּד לוֹמַר: ״וְלָקַחְתָּ״ – כָּל דָּבָר שֶׁנִּלְקָח בַּיָּד, דִּבְרֵי רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה. רַבִּי אוֹמֵר: ״מַרְצֵעַ״ – מַה מַּרְצֵעַ מְיוּחָד שֶׁל מַתֶּכֶת, אַף כֹּל – שֶׁל מַתֶּכֶת;

Therefore, **the verse states: "And you shall take,"** which indicates that **anything that can be taken by hand** is a valid tool. This is **the statement of Rabbi Yosei, son of Rabbi Yehuda. Rabbi** Yehuda HaNasi **says:** Not all these items can be used. Rather, since the verse specifies **an "awl,"**[B] only items similar to an awl can be used; **just as an awl is distinct** in that it is fashioned **of metal,**[H] **so too, anything** fashioned **of metal** can be used.

וְקָתָנֵי סֵיפָא: אָמַר רַבִּי, יוּדָן בְּרַבִּי הָיָה דּוֹרֵשׁ: בְּשֶׁהֵן רוֹצְעִין – אֵין רוֹצְעִין אֶלָּא בַּמִּילָּת.

And the latter clause of the *baraita* **teaches: Rabbi** Elazar **said that Yudan the Distinguished would teach** as follows: **When they pierce** the ear of the slave, **they pierce only in the earlobe.**

וַחֲכָמִים אוֹמְרִים: אֵין עֶבֶד עִבְרִי כֹּהֵן נִרְצָע, מִפְּנֵי שֶׁנַּעֲשֶׂה בַּעַל מוּם; וְאִם תֹּאמַר: בַּמִּילָּת הָיוּ רוֹצְעִין, הֵיאָךְ עֶבֶד כֹּהֵן נַעֲשֶׂה בַּעַל מוּם? הָא אֵין רוֹצְעִין אֶלָּא בִּגְוֹבַהּ שֶׁל אוֹזֶן.

And the Rabbis say: The piercing is not performed on that part of the ear, since there is a tradition that the ear of **a Hebrew slave** who is **a priest is not pierced,**[H] **because** the piercing **renders him blemished** and unfit to serve in the Temple. **And if you say** that **they pierced** the slave **in the earlobe, how does a Hebrew slave** who is **a priest become blemished** through piercing? A wound on this part of the ear heals. **This** indicates that **they pierce only on the upper part of the ear,** through the cartilage.

אָמַר רַב חָנָא בַּר קְטִינָא: לָא קַשְׁיָא, כָּאן – לִשְׁחוֹט, כָּאן – לְפָסוֹל.

In any event, it is clear from the statement of Rabbi Yosei, son of Rabbi Yehuda, that the piercing of a needle is considered a blemish, despite the fact that it is definitely smaller than the size of a lentil. The Gemara answers: **Rav Ḥana bar Ketina said:** It is **not difficult,** as **here,** Rabbi Yosei, son of Rabbi Yehuda, said that the hole must be the size of a lentil **with regard to slaughtering** an animal outside the Temple due to the blemish. **There, with regard to disqualifying** the animal from being sacrificed, even a tiny hole is considered a blemish, just as it renders the priest blemished.

HALAKHA

An awl is distinct in that it is fashioned of metal – מַרְצֵעַ מְיוּחָד שֶׁל מַתֶּכֶת: In order for a Hebrew slave to remain a slave to his master after having completed his six years of servitude he must have his ear pierced. The procedure is performed on the upper portion of his right ear using a metal tool. This is in accordance with the opinion of Rabbi Yehuda HaNasi (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 3:9).

The ear of a Hebrew slave who is a priest is not pierced – אֵין עֶבֶד עִבְרִי כֹּהֵן נִרְצָע: The ear of a Hebrew slave who is a priest is not pierced, since doing so would render him blemished, and the verse states: "And he shall return to his family" (Leviticus 25:41), which indicates that he returns to his previous status in his family (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 3:8).

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מַאי כַּרְשִׁינָה? אָמַר רַב שֵׁרֵבְיָא: הִינְדָּא.

§ According to the first opinion cited in the *baraita*, the size of the hole that is considered a blemish in the ear of the firstborn animal is like that of a *karshina*. The Gemara asks: **What is a *karshina*? Rav Sherevya says:** It is a bitter vetch, called ***hinda*** in Aramaic.

בָּעָא מִינֵּיהּ רַב הוֹשַׁעְיָא מֵרַב הוּנָא רַבָּה: כַּרְשִׁינָה הַנִּכְנֶסֶת וְיוֹצֵאָה, אוֹ כַּרְשִׁינָה הָעוֹמֶדֶת? אָמַר לוֹ: זוֹ לֹא שָׁמַעְתִּי, כַּיּוֹצֵא בָּהּ שָׁמַעְתִּי.

With regard to this *halakha*, **Rav Hoshaya asked Rav Huna the Great:** Is this measure referring to **a bitter vetch that** can **enter and exit** the hole in the ear, which means that the hole is slightly larger than the bitter vetch? **Or** is it referring to **a bitter vetch that is stationary** in the hole, meaning that the hole is precisely the size of a bitter vetch? Rav Huna the Great **said to him: I did not hear this** *halakha* specifically, but **I heard a similar** *halakha* **to it,** that the expression: The size of a bitter vetch [*melo karshina*], means that the bitter vetch can enter and exit the hole.

דְּתָנַן: הַשִּׁדְרָה וְהַגּוּלְגֹּלֶת שֶׁחָסְרוּ; כַּמָּה חֶסְרוֹן בַּשִּׁדְרָה וְלֹא יְהֵא מְטַמֵּא בְּאוֹהֶל? בֵּית שַׁמַּאי אוֹמְרִים: שְׁתֵּי חוּלְיוֹת, וּבֵית הִלֵּל אוֹמְרִים: חוּלְיָא אַחַת. וּבַגּוּלְגֹּלֶת – בֵּית שַׁמַּאי אוֹמְרִים: כְּמִלְּא מַקְדֵּחַ, וּבֵית הִלֵּל אוֹמְרִים: כְּדֵי שֶׁיִּנָּטֵל מִן הַחַי וְיָמוּת.

As we learned in a mishna (*Oholot* 2:3): **The spine and the skull** of a corpse **that** are **incomplete**[H] do not impart ritual impurity in a tent. This *halakha* was unanimously accepted, but the details were subject to dispute: **How much** is considered **a deficiency in the spine so that it will not impart impurity in a tent? Beit Shammai say:** If it is missing **two vertebrae, and Beit Hillel say:** Even if it is missing only **one vertebra,** it will not impart impurity. **And** likewise, they disagree concerning the deficiency **in the skull: Beit Shammai say** that it must be missing a piece **like the size of a drilled hole, and Beit Hillel say:** It must be missing **an amount that if removed from a living** person, **he would die.**

וְיָתֵיב רַב חִסְדָּא וְקָמִיבַּעְיָא לֵיהּ: ״כְּדֵי שֶׁיִּנָּטֵל מִן הַחַי״ – וְכַמָּה? אֲמַר לֵיהּ רַב תַּחְלִיפָא בַּר אֲבוּדִימִי, הָכִי אָמַר שְׁמוּאֵל: כְּסֶלַע.

The Gemara relates: **And Rav Ḥisda was sitting, and he raised a dilemma:** That which was stated: **An amount that if removed from a living** person, **how much** is that? **Rav Taḥlifa bar Avudimi said to him: This is what Shmuel says:** It is **like** the size of **a *sela*** coin.[B]

וְאֵיתֵימַר, רַב סָפְרָא אָמַר: שְׁמַעְתְּתָא אֲמַר לֵיהּ, וְרַב שְׁמוּאֵל בַּר יְהוּדָה אָמַר: מַתְנִיתָא אֲמַר לֵיהּ, וְסִימָנֵיךְ: ״תָּנֵי רַב שְׁמוּאֵל בַּר יְהוּדָה״.

The Gemara notes: **And it was stated** that the *amora'im* disagreed with regard to whom Rabbi Taḥlifa cited when relating this *halakha* to Rav Ḥisda. **Rav Safra says** that **he told him a *halakha*** of the *amora'im* citing Shmuel. **And Rav Shmuel bar Yehuda says** that **he told him a *baraita*** that stipulated that the measure is like the size of a *sela* coin. **And your mnemonic** to remember what each one said is the common talmudic phrase: **Rav Shmuel bar Yehuda teaches** [***tanei***], generally indicating a source from a *tanna*, which hints that according to Rav Shmuel bar Yehuda, Rav Taḥlifa cited a *baraita* to Rav Ḥisda, while according to Rav Safra, he related a tradition from Shmuel.

וַאֲמַר לֵיהּ: אִם כֵּן, עָשִׂיתָה דִּבְרֵי בֵּית שַׁמַּאי וְדִבְרֵי בֵּית הִלֵּל אֶחָד! דְּתָנַן: מָאוֹר שֶׁלֹּא נַעֲשָׂה בִּידֵי אָדָם – שִׁיעוּרוֹ מִלֹּא אֶגְרוֹף גָּדוֹל, וְזֶהוּ אֶגְרוֹפוֹ שֶׁל בֶּן אֲבַטִּיחַ. אָמַר רַבִּי יוֹסֵי: וְיָשְׁנוֹ כִּרֹאשׁ גָּדוֹל שֶׁל אָדָם.

And Rav Ḥisda **said to** Rav Taḥlifa: **If so,** that the measure of the deficiency according to the opinion of Beit Hillel is the size of a *sela* coin, **you have made the statement of Beit Shammai and the statement of Beit Hillel one** and the same, since the size of a *sela* coin and a drilled hole is identical. **As we learned** in a mishna (*Kelim* 17:12): With regard to **a window that was not fashioned by the hands of a person,** such as where a stone fell out of the wall by itself, **its measure** for which ritual impurity is transmitted from room to room is like **the size of a large fist.**[H] **And this is** the size of **the fist of Ben Avatiaḥ,**[P] who was known to be an exceptionally large man. **Rabbi Yosei said: And** the size of this fist **is like** the size of **a large human head.**

BACKGROUND

***Sela* coin – סֶלַע:** The *sela* coin was the most valuable silver coin and was the equivalent of the biblical shekel. The exact size of the *sela* coin fluctuated from one period to another. At the end of the first century BCE during the days of Hillel and Shammai, the diameter of the Roman *sela* coin was between 2.1 and 2.3 cm, while at the beginning of the third century CE during the days of Shmuel, it was larger, with a diameter of 2.7 to 2.8 cm.

PERSONALITIES

Ben Avatiaḥ – בֶּן אַבְטִיחַ: Ben Avatiaḥ, also known as Ben Batiaḥ, was the son of the sister of Rabbi Yoḥanan ben Zakkai and was responsible for the stores of grain in Jerusalem before the destruction of the Temple. He was the commander of the Sicarii in Jerusalem, who burned all the grain in the city but nevertheless allowed Rabbi Yoḥanan to leave the city and speak to Vespasian (see *Eikha Rabba* 1:3).

HALAKHA

The spine and the skull of a corpse that are incomplete – הַשִּׁדְרָה וְהַגּוּלְגֹּלֶת שֶׁחָסְרוּ: A complete spine imparts ritual impurity through physical contact with it, if it is carried, or if one is in a tent with it, as is the *halakha* concerning a complete corpse. If it is lacking even one of its eighteen vertebrae, then its status is like that of other bones and it imparts impurity only through contact or if carried. Likewise with regard to the skull, if it is whole then it has the same status as a corpse, and if it is lacking the size of a *sela* coin then its status is like that of other bones. This is in accordance with the opinion of Beit Hillel and the statement of Rav Taḥlifa citing Shmuel (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 2:8).

A window that was not fashioned by the hands of a person, its measure is like the size of a large fist – מָאוֹר שֶׁלֹּא נַעֲשָׂה בִּידֵי אָדָם שִׁיעוּרוֹ מִלֹּא אֶגְרוֹף גָּדוֹל: The measure of a window that was not made by a person for which ritual impurity will be transmitted from room to room is like the size of an exceptionally large fist, which is the size of a large human head. For a window that was made by a person to let light enter, the measure is the size of a *pundeyon* (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 14:1–2).

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נַעֲשָׂה בִּידֵי אָדָם – שִׁיעֲרוּהוּ כְּמִלְּא מַקְדֵּחַ גָּדוֹל שֶׁל לִשְׁכָּה, שֶׁהוּא כְּפוּנְדְּיוֹן שֶׁל הָאִיטַלְקִי, וּכְסֶלַע נֵירוֹנִית, וְשֶׁנּוֹ

The mishna continues: But if the window **was made by the hand of a person, its measure** for which ritual impurity is transmitted is **like the size of the drilled hole** of the **large** drill **of the chamber** in the Temple, **which is like** the size of **the Italian *pundeyon*[B] and like** the size of **a *sela* of** the emperor **Nero.**[B] **And its** size **is**

BACKGROUND

Italian *pundeyon* – פּוּנְדְּיוֹן שֶׁל הָאִיטַלְקִי: The *pundeyon*, from the Latin dupondium, was a copper coin worth two *issar*. The diameter of the *pundeyon* minted in Italy was between 2.7 and 3.1 cm, and it was larger than the *sela* of the emperor Nero. It would seem that in Eretz Yisrael they used *pundeyon* coins that were minted locally and not coins that were produced in Rome. It is therefore possible that the coin referred to here is actually a *pundeyon* minted in Eretz Yisrael whose size equaled that of the *sela* of Emperor Nero with a diameter between 2.5 and 2.6 cm, and it is referred to as Italian only because the Roman deputies were the ones who minted it.

Sela of the emperor Nero – סֶלַע נֵירוֹנִית: The *sela* of the emperor Nero was minted between the years 59 and 68 CE. Its size fluctuated between 2.5 and 2.6 cm. It is possible that this designation refers to all Roman coins from the period of the Mishna and is associated with Nero because it was during his reign that the Romans began minting *sela* coins where the Sages lived. The other Roman coins minted from that period and onward until the end of the era of the *tanna'im* were also the same size. Bar Kokheva would ultimately mint his own currency by stamping over these coins.

Perek **VI**
Daf **38** Amud **a**

BACKGROUND

Hole of a yoke – נֶקֶב שֶׁל עוֹל:



Yoked oxen

כְּמִלְּא נֶקֶב שֶׁל עוֹל! אִישְׁתִּיק. וַאֲמַר לֵיהּ רַב חִסְדָּא: שְׁמָא מַקְדֵּחַ וְחִיסּוּמוֹ שָׁנִינוּ?

like the size of the hole of a yoke[B] of an animal. Evidently, the measure of the drilled hole stipulated by Beit Shammai with regard to a deficient skull equals the size of a *sela* coin stipulated by Beit Hillel according to the statement of Rav Taḥlifa. The Gemara relates: Rav Taḥlifa **was silent. And Rav Ḥisda said to him: Perhaps we learned** that Beit Shammai did not mean the size of a drilled hole alone, but rather the size of **a drilled** hole **and its obstruction,**[N] i.e., a hole that allows for the drill to be inserted and removed. This is slightly larger than the *sela* mentioned by Beit Hillel.

וַאֲמַר לֵיהּ רַב תַּחְלִיפָא: לָא תֵּימָא ״שְׁמָא״, אֶלָּא: וַדַּאי מַקְדֵּחַ וְחִיסּוּמוֹ; צָרִיךְ לְהֶתָּלוֹת עָלֶיהָ כְּחִזְקִיָּה אֲבִי עִקֵּשׁ.

And Rav Taḥlifa said to him: Do not say: Perhaps. Rather, say: Beit Shammai **definitely** was referring to the size of **a drilled** hole **and its obstruction,** and you **can rely on this** explanation since it is certainly correct, as certain **as** the testimony of **Ḥizkiyya, the father of Ikkesh,** which is uncontested. It can be derived from here that just as the phrase: Size of a drilled hole, is referring to the size of a hole into which the drill can be inserted and removed, so too, the size of a bitter vetch mentioned in the mishna is referring to a hole into which the bitter vetch can be inserted and removed.

NOTES

We learned the size of a drilled hole and its obstruction – מַקְדֵּחַ וְחִיסּוּמוֹ שָׁנִינוּ: There is a dispute among the commentaries as to the meaning of this phrase. According to Rashi, after the drilling the hole was widened to allow for the removal of the drill, and that is what is referred to here. According to Rabbeinu Gershom Meor HaGola, it refers to the back part of the drill, which is wider than its tip. Others explain, based on the mishna in *Kelim* (13:4), that the word *ḥisumo* means its reinforcement, and it refers to the stronger layer of metal that covers the drill to reinforce it and causes the drill to be wider (see *Or Same'aḥ* on Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:3, and *Shai LaMora*).

דְּתָנַן, זוֹ עֵדוּת הֵעִיד חִזְקִיָּה אֲבִי עִקֵּשׁ לִפְנֵי רַבָּן גַּמְלִיאֵל בְּיַבְנֶה, שֶׁאָמַר מְשׁוּם רַבָּן גַּמְלִיאֵל הַזָּקֵן: כָּל שֶׁאֵין לוֹ תּוֹךְ בִּכְלֵי חֶרֶס – אֵין לוֹ אֲחוֹרַיִם לַחֲלִיקָה; נִטְמָא תּוֹכוֹ – נִטְמָא גַּבּוֹ, נִטְמָא גַּבּוֹ – נִטְמָא תּוֹכוֹ.

§ The Gemara explains the reference to the testimony of Ḥizkiyya the father of Ikkesh. **As we learned** in a *baraita* that **Ḥizkiyya, the father of Ikkesh, testified this testimony before Rabban Gamliel in Yavne, which he said in the name of Rabban Gamliel the Elder: With regard to earthenware vessels, any** vessel **that does not have a receptacle**[H] **has no distinction with regard to** the halakhic status of **its sides.** This is in contrast to the earthenware vessels mentioned in the Torah, where only the inside, and not the outside, is susceptible to ritual impurity. Rather, if **its inside,** i.e., the sides that are used, **became impure, its outside** also **becomes impure.** Likewise, if **its outside became impure, its inside** also **becomes impure.**

HALAKHA

With regard to earthenware vessels, any vessel that does not have a receptacle – כָּל שֶׁאֵין לוֹ תּוֹךְ בִּכְלֵי חֶרֶס: Flat earthenware vessels without a receptacle, e.g., an earthenware candelabrum, chair, or table, are not susceptible to ritual impurity by Torah law or rabbinic law, as it is stated: "And every earthenware vessel into which any of them fall, whatever is in it shall be impure" (Leviticus 11:33). This indicates that an earthenware vessel that has a receptacle into which an item can fall is susceptible to ritual impurity, but one that does not is not (Rambam *Sefer Tahara*, *Hilkhot Kelim* 1:8 and 18:1).

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כְּלִי חֶרֶס, בְּתוֹכוֹ תָּלָה רַחֲמָנָא, אִית לֵיהּ תּוֹךְ – אִיטַּמֵּי לֵיהּ, לֵית לֵיהּ תּוֹךְ – לָא אִיטַּמֵּי לֵיהּ!

The Gemara challenges: With regard to **an earthenware vessel, the Merciful One rendered** its susceptibility to impurity **dependent on** the presence of **a receptacle,** as it states: "And every earthen vessel into whose interior any of them falls" (Leviticus 11:33). Consequently, **if there is a receptacle, it will become impure,** but if **there is no receptacle, it** should **not become impure.**

אֲמַר רַבִּי יִצְחָק בַּר אָבִין, הָכִי קָאָמַר: כָּל שֶׁאֵין לוֹ תּוֹךְ בִּכְלֵי חֶרֶס – כִּנְגָדוֹ בִּכְלֵי שֶׁטַח אֵין לוֹ אֲחוֹרַיִם לַחֲלִיקָה; נִטְמָא תּוֹכוֹ – נִטְמָא גַּבּוֹ, נִטְמָא גַּבּוֹ – נִטְמָא תּוֹכוֹ.

Rabbi Yitzḥak bar Avin said in response: The testimony is not referring to earthenware vessels, but to vessels that are purified through immersion in a ritual bath, such as wooden vessels, which are susceptible to ritual impurity even if they lack a receptacle. Accordingly, **this** is what the *tanna* **is saying: With regard to earthenware vessels, any** vessel **that does not have a receptacle** never becomes impure. The *halakha* in the **corresponding** case **with regard to a vessel** that is purified though **rinsing,** i.e., immersion in a ritual bath, where it lacks a receptacle, is that **there is no distinction with regard to the** halakhic status of **its sides.** Therefore, if **its inside,** i.e., the side that is used, **became impure, its outside** also **becomes impure.** Likewise, **if its outside became impure, its inside** also **becomes impure.**

לָמָּה לִי לְמֵיתְלֵייהּ בִּכְלֵי חֶרֶס? נֵיעָמָא: כָּל שֶׁאֵין לוֹ תּוֹךְ בִּכְלֵי שֶׁטַח – אֵין לוֹ אֲחוֹרַיִם לַחֲלִיקָה!

The Gemara asks: **Why do I** need **to render** this *halakha* **dependent on an earthenware vessel? Let us** simply **say: With regard to a vessel** that is purified though **rinsing, any** vessel **that does not have a receptacle has no distinction** with regard **to the** halakhic status of **its sides.**

הָא קָא מַשְׁמַע לָן, דְּיֵשׁ לוֹ תּוֹךְ הֲרֵי הוּא כִּכְלֵי חֶרֶס: מַה כְּלֵי חֶרֶס, נִטְמָא תּוֹכוֹ – נִטְמָא גַּבּוֹ, לֹא נִטְמָא תּוֹכוֹ – לֹא נִטְמָא גַּבּוֹ; אַף כְּלֵי שֶׁטַח, נִטְמָא תּוֹכוֹ – נִטְמָא גַּבּוֹ, לֹא נִטְמָא תּוֹכוֹ – לֹא נִטְמָא גַּבּוֹ.

The Gemara answers: **This** association **teaches us that** if the vessel that is purified through rinsing **has a receptacle, it is like an earthenware vessel.** Therefore, **just as** in the case of **an earthenware vessel,** if **its inside became impure, its outside** also **becomes impure,** but if **its inside did not become impure, its outside does not become impure, so too,** with regard to **a vessel** that is purified through **rinsing,** if **its inside became impure, its outside becomes impure.** But **if its inside did not become impure, its outside does not become impure.**

בִּשְׁלָמָא כְּלִי חֶרֶס – גַּלֵּי בֵּיהּ רַחֲמָנָא "תּוֹכוֹ", אֶלָּא כְּלִי שֶׁטַח, מִי גַּלֵּי בֵּיהּ רַחֲמָנָא "תּוֹכוֹ"?

The Gemara asks: **Granted** that with regard to **an earthenware vessel, the Merciful One revealed** that **it** is rendered ritually impure only if the impure item fell into its "**inside**" (see Leviticus 11:33). **But** with regard to **a vessel** that is purified though **rinsing, did the Merciful One reveal with regard to it** that it becomes impure only through its **inside?** Therefore, even if the impure item touched the outside, it should become entirely impure.

אִי בְּטוּמְאָה דְּאוֹרַיְיתָא – הָכִי נַמִּי, הָכָא בְּמַאי עָסְקִינַן – בְּטוּמְאַת מַשְׁקִין דְּרַבָּנַן. דְּתַנַן: כְּלִי שֶׁנִּטְמָא אֲחוֹרָיו בְּמַשְׁקִין – אֲחוֹרָיו טְמֵאִין, תּוֹכוֹ אֲגָנוֹ אָזְנוֹ וְיָדָיו טְהוֹרִין; נִטְמָא תּוֹכוֹ – כּוּלּוֹ טָמֵא.

The Gemara answers: **If** it is referring **to ritual impurity** that is **by Torah law,** then **indeed** a vessel that is purified through rinsing can be become impure even through its outside. But **here we are dealing with** the **ritual impurity of liquids,** i.e., liquids that became impure and subsequently touched the vessel, which becomes impure only **by rabbinic law. As we learned** in a mishna (*Kelim* 25:6): With regard to **a vessel whose outside became ritually impure by** contact with impure **liquids,**[H] only **its outside is impure,** but **its inside, its rim, its ear-shaped handle,**[B] **and its** straight **handle are pure.** If **its inside became impure,** it becomes **impure** in **its entirety.**

BACKGROUND

Its rim, its ear-shaped handle – אֲגָנוֹ אָזְנוֹ: The rim is a protrusion on the upper part of the vessel, either slanted toward the outside or the inside. It serves to prevent the complete spillage of the contents of the vessel in the event that it is knocked over. The word handle [*ozen*] refers to a handle that is shaped like an ear.



Jug from the talmudic era

HALAKHA

A vessel whose outside became ritually impure by contact with impure liquids – כְּלִי שֶׁנִּטְמָא אֲחוֹרָיו בְּמַשְׁקִין: The Sages decreed that impure liquids that fall into a vessel render the entire vessel impure with second-degree impurity. With regard to earthenware vessels, this is the *halakha* even when the impure liquids fall into its airspace but do not touch the vessel. But if the impure liquids fall on the exterior of the vessel, only its exterior is rendered impure, while the interior of the vessel remains pure. This principle applies both to earthenware vessels as well to metal ones (Rambam). The Ra'avad maintains that if impure liquids touch the exterior of an earthenware vessel, the entire vessel remains pure (Rambam *Sefer Tahara, Hilkhot She'ar Avot HaTumot* 7:3).

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מִדְּאוֹרַיְיתָא אֵין אוֹכֶל מְטַמֵּא כְּלִי, וְאֵין מַשְׁקֶה מְטַמֵּא כְּלִי, וְרַבָּנַן הוּא דְּגָזְרוּ מִשּׁוּם מַשְׁקֶה טָב וְזָבָה.

The Gemara explains the reason: **By Torah law, food does not transmit impurity** to **a vessel,**[H] **and a liquid does not transmit impurity** to **a vessel. And it was the Sages who decreed** that an impure liquid transmits impurity to a vessel, **because** of the concern that people will be lenient with regard to **the liquid of a *zav* and a *zava*,**[B] such as their urine or saliva, which are a primary source of impurity and impart impurity to vessels.

הִלְכָךְ, שָׁוְיוּהּ רַבָּנַן כְּטוּמְאָה דִּכְלִי חֶרֶס, וְלָא שָׁוְיוּהּ רַבָּנַן כְּטוּמְאָה דְּאוֹרַיְיתָא דְּנַפְשֵׁיהּ;

Therefore, the Sages deemed the impurity of a vessel that is purified though rinsing whose outside became impure through liquid to be **like the impurity of an earthenware vessel,** and if its exterior became impure, its interior remains pure. **But the Sages did not deem** its impurity **like the impurity of itself,** i.e., a vessel that is purified through rinsing, **by Torah law,** that if its exterior became impure, the vessel becomes impure in its entirety.

עֲבַדוּ רַבָּנַן הֶיכֵּירָא כִּי הֵיכִי דְּלָא לִישְׁרוֹף עֲלֵיהּ תְּרוּמָה וְקָדָשִׁים. אִי הָכִי, אֵין לוֹ תּוֹךְ נַמִּי, לֵיעֲבִיד נַמִּי הֶיכֵּירָא!

The reason for this is that through this ruling **the Sages employed an indicator** that it is impure only by rabbinic law **so that** people **will not burn *teruma* and consecrated** items **due to** having come into contact with **those** vessels, as by Torah law they are ritually pure and it is prohibited to burn them. The Gemara asks: **If so,** that this is the case under discussion, then with regard to a vessel that is purified through rinsing that **has no receptacle as well,** the Sages **should employ an indicator.** They should rule that the inside remains pure so that *teruma* and consecrated items will not be burned after coming in contact with it. Why then did Ḥizkiyya, the father of Ikkesh, testify that if its outside became impure, its inside becomes impure as well?

כֵּיוָן דַּעֲבַדוּ הֶיכֵּירָא בְּיֵשׁ לוֹ תּוֹךְ, יְדִיעַ דְּאֵין לוֹ תּוֹךְ – דְּרַבָּנַן.

The Gemara answers: **Since** the Sages **employed an indicator with regard to** vessels that are purified through rinsing that **have a receptacle,** it is thereby **known** that the impurity of a vessel **that does not have a receptacle** that comes in contact with an impure liquid is **by rabbinic law.** Therefore, no one will burn *teruma* and consecrated items that came in contact with it.

וְאֵין לוֹ תּוֹךְ בִּכְלִי שֶׁטַח, דְּאוֹרַיְיתָא בַּר קַבּוּלֵי טוּמְאָה הוּא? דּוּמְיָא דְּשַׂק בָּעֵינַן, מַה שַּׂק מִיטַּלְטֵל מָלֵא וְרֵיקָן – אַף כֹּל מִיטַּלְטֵל מָלֵא וְרֵיקָן!

The Gemara asks: **And with regard to a vessel** that is purified through **rinsing** that **does not have a receptacle, is it susceptible to ritual impurity by Torah law,** so that the Sages found it necessary to decree that the exterior is susceptible to impurity of liquids? After all, in order for a vessel to be susceptible to impurity **it is required** to be **similar to a sack,**[H] which is mentioned with regard to ritual impurity (see Leviticus 11:32): **Just as a sack is carried** both **full and empty, so too, any** object must be capable of being **carried** both **full and empty** in order to become ritually impure. This excludes a vessel that has no receptacle and cannot be carried full.

בְּהָנָךְ דַּחֲזוּ לְמִדְרָסוֹת. אִי הָכִי, חֶרֶס נַמִּי! אֵין מִדְרָס בִּכְלֵי חֶרֶס.

The Gemara answers that it is referring **to these** vessels **that are suited for** sitting and are susceptible to ritual impurity imparted by **treading,**[H] i.e., the ritual impurity imparted by a *zav*, *zava*, or a menstruating woman who sits or lies down on an item, even though it lacks a receptacle. The Gemara challenges: **If so,** with regard to **an earthenware** vessel that has no inside, the Rabbis should **also** decree that it is susceptible to the impurity of liquids if it is fit for sitting. The Gemara answers: **There is no** ritual impurity imparted by **treading with regard to earthenware vessels.**

רַב פַּפָּא אָמַר: ״מַקֵּדַח גָּדוֹל״ שָׁנִינוּ,

§ The Gemara returns to the matter of an incomplete skull. According to the opinion of Beit Shammai, if the skull is missing a piece of bone the size of a drilled hole, it does not impart impurity. According to Shmuel, Beit Hillel holds that it must be missing a piece the size of a *sela* coin. If so, there would be no disagreement between Beit Shammai and Beit Hillel, as it was taught with regard to a window that imparts ritual impurity that a drilled hole is the same size as a *sela* coin. The Gemara now offers an additional answer: **Rav Pappa says** that it was with regard to **a large drill** that **we learned** that the minimum size of a window that imparts impurity equals the size of a *sela* coin.

HALAKHA

Food does not transmit impurity to a vessel – אֵין אוֹכֶל מְטַמֵּא כְּלִי: An impure food never transmits impurity to a vessel that touched it, not even by rabbinic law. The Sages decreed that impure liquids do render vessels that came into contact with them impure. This decree is due to the concern that the fluids of a *zav* and a *zava*, which are a primary source of impurity, impart impurity to vessels by Torah law (Rambam *Sefer Tahara*, *Hilkhot She'ar Avot HaTumot* 7:1, 2).

It is required to be similar to a sack – דּוּמְיָא דְּשַׂק בָּעֵינַן: Any wooden vessel designated to rest in a fixed place and not to be moved is not susceptible to ritual impurity, neither by Torah law nor by rabbinic law (Rambam *Sefer Tahara*, *Hilkhot Kelim* 3:1).

These vessels that are suited for sitting and are susceptible to ritual impurity imparted by treading – הָנָךְ דַּחֲזוּ לְמִדְרָסוֹת: With regard to flat vessels that are purified through rinsing in a ritual bath, which are not susceptible to ritual impurity imparted by treading, e.g., a table, since they cannot be rendered impure by Torah law, if their exteriors are rendered impure by liquids their interiors remain ritually pure. According to the Ra'avad, their exteriors remain pure as well (see *Mishne LaMelekh*). This differentiation between the exterior and interior does not apply to flat vessels that are purified through rinsing in a ritual bath that are susceptible to ritual impurity imparted by treading. Therefore, if impure liquids touched them, whether on their interior or their exterior, the entire vessel is rendered ritually impure (Rambam *Sefer Tahara*, *Hilkhot Kelim* 28:3).

BACKGROUND

A *zav* and a *zava* – זָב וְזָבָה: The Torah (see Leviticus 15:33) draws a parallel between the *halakhot* of the impurity of a *zav* and those of a *zava* despite the differences between them. The first difference is that a man becomes impure as a *zav* due to some sort of seminal discharge, whereas a woman becomes impure due to a discharge of blood. Second, a woman becomes a *zava* if she sees blood for three consecutive days, whereas with regard to a *zav*, his impurity depends on the number of discharges rather than only the number of days. Both a *zav* and a *zava* who see three discharges are full-fledged *zavim*, which means that they are obligated to bring an offering after the observance of seven days with no discharge. The Torah states that a *zav* renders impure not only those objects he touches but also items that he sits or lies upon, even if he does not come into direct contact with them.

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מִכְּלָל דְּמַקְדַּח סְתָם – זוּטְרָא נַמִי מִכְּסֶלַע. הָנֵיחָא לְרַבִּי מֵאִיר, אֶלָּא לְרַבָּנַן מַאי אִיכָּא לְמֵימַר?

The Gemara comments that **by inference, the unspecified drill** mentioned in the statement of Beit Shammai with regard to an incomplete skull is **also smaller than the size of a *sela*** coin mentioned by Beit Hillel. The Gemara asks: **This works out well according to** the explanation of **Rabbi Meir** for the opinion of Beit Shammai. **But according to the** opinion of **the Rabbis, what is there to say?**

דְּתַנַן: בְּאֵיזֶה מַקְדַּח אָמְרוּ – בְּקָטָן שֶׁל רוֹפְאִים, דִּבְרֵי רַבִּי מֵאִיר. וַחֲכָמִים אוֹמְרִים: בְּגָדוֹל שֶׁל לִשְׁכָּה!

As we learned in a mishna (*Oholot* 2:3): **With regard to which drill did** Beit Shammai **state** their opinion concerning an incomplete skull? It was **with regard to a small** drill **of doctors,** used for drilling bones. This is **the statement of Rabbi Meir. And the Rabbis say:** It was **with regard to a large** drill, such as that used **in the** Temple **chamber.** According to the mishna concerning a window that imparts impurity, the size of this drill is like that of a *sela* coin, and the opinions of Beit Shammai and Beit Hillel would still be identical.

וְלָרַבִּי מֵאִיר מִי נִיחָא? הֲוָה לֵיהּ מְקוּלֵּי בֵּית שַׁמַּאי וּמֵחוּמְרֵי בֵּית הִלֵּל, וַאֲנַן, דְּתָנַן – תְּנַן, דְּלָא תְנַן – לָא תְנַן!

The Gemara asks further: **And** even **according to** the opinion of **Rabbi Meir, does it work out well?** If the unspecified drill mentioned by Beit Shammai is smaller than a *sela* coin, then **this is** an instance **of the leniencies of Beit Shammai and of the stringencies of Beit Hillel,** as with regard to a skull that was missing a piece only the size of a drilled hole, Beit Shammai are lenient and hold that it does not impart impurity in a tent, while Beit Hillel do consider it impure. **And we** have a principle: **That which we learned** in the mishna in tractate *Eduyyot* pertaining to the leniencies of Beit Shammai and the stringencies of Beit Hillel, **we learned,** and **that which we did not learn** there, **we did not learn.** Therefore, in all other cases, Beit Shammai are stringent and Beit Hillel are lenient.

אָמַר רַב נַחְמָן: סֶלַע גֵּירוֹנִית שֶׁנִּינוּ כְּמַקְדַּח גָּדוֹל, סֶלַע סְתָם – זוּטְרָא מִמַּקְדַּח סְתָם.

Rav Naḥman says: It is specifically with regard to **a *sela* of** the emperor **Nero that we learned** in the mishna concerning a window that imparts impurity that it is **like** the size of **a large drilled** hole. But with regard to **the unspecified *sela*** coin mentioned by Beit Hillel as the measure, it is even **smaller than an unspecified drilled** hole. Therefore, Beit Shammai are stringent even according to the opinion of Rabbi Meir.

מתני׳ הָרִיס שֶׁל עַיִן שֶׁנִּיקַּב, שֶׁנִּפְגַּם, שֶׁנִּסְדַּק; הֲרֵי בְּעֵינוֹ דַּק, תְּבַלּוּל, חִלָּזוֹן נָחָשׁ, עָצָב. אֵיזֶהוּ תְּבַלּוּל – לָבָן הַפּוֹסֵק בַּסִּירָא וְנִכְנָס בַּשָּׁחוֹר. שָׁחוֹר נִכְנָס בַּלָּבָן – אֵינוֹ מוּם.

MISHNA For these blemishes of the eye, one may slaughter the firstborn animal outside the Temple: **The eyelid**[H] **that was pierced,**[B] an eyelid **that was damaged** and is lacking, or an eyelid **that was split;** and likewise, one may slaughter a firstborn animal outside the Temple **if** there was **in his eye a cataract, a *tevallul,*** or a growth in the shape of **a snail, a snake,**[B] or **a berry** that covers the pupil.[HN] **What is a *tevallul*?**[B] It is **a white** thread **that bisects the iris**[N] **and enters the black** pupil. If it is **a black** thread that bisects the iris and **enters the white** of the eye it **is not a blemish.**

HALAKHA

Eyelid – רִיס שֶׁל עַיִן: There are three blemishes that apply to the eyelid: An eyelid that was pierced to any degree, one that was split, and one that was damaged to any degree. All three of these are included in the term "maimed" (see Leviticus 22:22). The *Tur* states that nowadays, when there are no experts in these matters, one cannot permit a firstborn to be slaughtered due to any of these blemishes mentioned in the mishna (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:4; *Tur*, *Yoreh De'a* 309).

If there was in his eye a cataract, a *tevallul,* or a growth in the shape of a snail, a snake, or a berry that covers the pupil – הֲרֵי בְּעֵינוֹ דַּק תְּבַלּוּל חִלָּזוֹן נָחָשׁ עָצָב: The blemishes of the eye include one that is shaped like a berry, even if the animal can see, and one where a superfluous piece of flesh in the eye extends and covers part of the black of the eye, which is the growth in the shape of the snail and snake mentioned in the mishna (*Kesef Mishne*). The Ra'avad maintains that this snail is a line of red passing through the black. The *dak* mentioned in the Torah (see Leviticus 21:20) is a white spot in the black of the eye. If some of the white of the eye entered into the black until the two were mixed together, this is the *tevallul* mentioned in that verse. If the black extended into the white, this is not a blemish, as there are no blemishes in the white part of the eye (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:5).

BACKGROUND

Eyelid that was pierced – רִיס שֶׁל עַיִן שֶׁנִּיקַּב: This can be an acquired blemish, or a genetic defect such as palpebral coloboma, a defect of ocular tissue.

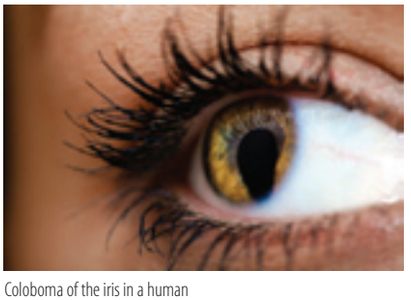
Snail, snake – חִלָּזוֹן נָחָשׁ: According to the Rambam, this refers to a pterygium, also known as surfer's eye, a growth that covers the white of the eye, usually on the side closest to the nose, before spreading toward the middle of the eye.

What is a *tevallul* – אֵיזֶהוּ תְּבַלּוּל: The black of the eye mentioned by the mishna is the pupil, also called the *tamlakh* by the Sages. The *sira* is the iris, a colored circle that surrounds the pupil, while the white of the eye, the sclera, is the outer layer of the eye that surrounds it.

The case described here as a white thread that bisects the iris is probably a cyst of the iris, while the case of a black thread that bisects the iris and enters the white of the eye is likely a coloboma of the iris.



Cyst of the iris in a dog



Coloboma of the iris in a human

NOTES

A growth in the shape of a snail, a snake, or a berry [*atzav*] that covers the pupil – חִלָּזוֹן נָחָשׁ עָצָב: According to Rashi, the snail and the snake, which the Gemara on 38b states is one category, and the berry, are names for diseases of the eye. In the Rav Kapaḥ edition of the Rambam's Commentary on the Mishna, it says that this snail and snake refer to a known phenomenon called الضفرة, *al-ḍafrah*, in Arabic, a kind of flesh or membrane that grows from the white of the eye, on the side near the nose, before spreading into the black. The berry, which is referred to as *inav* in his version of the mishna, is a protrusion in the eye, probably resulting from an inflammation of the cornea. According to Rashi in his commentary on the Torah, the snail and snake, and berry, are examples of a *tevallul*, which, as indicated by the continuation of the mishna, refers to something that passes between the black and the white of the eye. If so, the mishna is stating that a *tevallul* can take these shapes, which appears to be the explanation of the *Tosefta* (4:2) as well (see *Ḥasdei David* there). The Ra'avad disagrees with the explanation of the Rambam, claiming that the snail mentioned here is not flesh or a membrane on the eye, but a line of red passing through the black.

A white thread that bisects the iris [*basira*] – לָבָן הַפּוֹסֵק בַּסִּירָא: According to Rashi, the *sira* is the iris, a thin, colored, circular structure that divides between the white and the black of the eye. The Rambam apparently maintains that the *sira* is a kind of thread surrounding that colored circle, while the colored area is considered part of the black of the eye (*Likkutei Halakhot*; *Ḥazon Ish*).

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LANGUAGE

Eyelid [*ris*] – רֵיס: This is referring to the eyelid, *palpebra*, which protects the eye and contains a row of hairs. As in modern Hebrew, the Sages called these hairs themselves *risim*.

HALAKHA

A sunken cataract is a blemish, but a floating cataract is not a blemish – דַּק מְשׁוּקָּע הֲרֵי זֶה מוּם צָף אֵינוֹ מוּם: If there was a white spot in the black of the eye, that is a blemish, as this is the *dak* mentioned in the Torah (see Leviticus 21:20). This is the *halakha* provided that the white spot floats in the black. If it did not float upon the black or if it was sunken into the black, it is not a blemish. Furthermore, if there was a black spot in the white, it is not a blemish even if it floats, as there are no blemishes in the white of the eye. If there was a black spot sunken in the black of the eye, this too is considered *dak*, but if it was floating it is not a blemish, as it is black floating on black. This *halakha* is in accordance with the ruling of the *baraita* and the statement of Yoshiya from Usha (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:5).

BACKGROUND

A black cataract [*dak*] if it is sunken – דַּק שָׁחוֹר מְשׁוּקָּע: The Gemara here refers to blemishes that affect the pupil alone, not the white part of the eye. This is because a blemish in the white of the eye, or the sclera, does not impair the animal's vision in any way, as the sclera does not fulfill any real function in the animal's sight. With regard to the identity of the blemish, it may be a cloudiness of the eye, which appears either as sunken or floating. Such blemishes could be congenital or the result of various diseases that affect the eye. Some scholars maintain that these are types of cataracts, which lead to murkiness and disturbances in one's vision.

גמ׳ מַאי הָרִיס? אָמַר רַב פַּפָּא: תּוּרָא בָּרָא דְּעֵינָא. ״דַּק תְּבַלּוּל״. תָּנוּ רַבָּנַן: דַּק מְשׁוּקָּע – הֲרֵי זֶה מוּם, צָף – אֵינוֹ מוּם.

GEMARA The mishna's list of blemishes of the eye included an eyelid [*ris*][L] that was pierced, damaged, or split. The Gemara asks: **What** is the meaning of: **The *ris*? Rav Pappa says:** It means **the outer line,** or barrier, **of the eye,** i.e., the eyelid. The mishna further stated: **A cataract, a *tevallul.*** With regard to a cataract, **the Sages taught: A sunken cataract,** i.e., one that is in the eye itself, **is a blemish,** but **a floating** cataract, i.e., one that is floating above the eye, **is not a blemish.**[H]

וְהָתַנְיָא אִיפְּכָא? לָא קַשְׁיָא, הָא בַּשָּׁחוֹר, הָא בַּלָּבָן. וְהָא אֵין מוּמִין בַּלָּבָן! אֶלָּא, הָא – בְּדוֹק לָבָן, הָא – בְּדוֹק שָׁחוֹר.

The Gemara asks: **But isn't the opposite taught** in a *baraita*, that a sunken cataract is not a blemish whereas a floating one is a blemish? The Gemara answers: That is **not difficult,** as **this** first *baraita* is referring **to** a cataract in **the black** portion of the eye, whereas **that** second *baraita* is referring **to** one in **the white** portion of the eye. The Gemara challenges: **But** it was taught that **there are no blemishes in the white** portion of the eye. **Rather,** both *baraitot* are referring to the black portion of the eye, and **this** second *baraita* is referring **to a white cataract,** whereas **that** first *baraita* is referring **to a black cataract.**

דְּאָמַר רַבָּה בַּר בַּר חָנָה, סָח לִי יֹאשִׁיָּה דִּמְן אוּשָׁא: דַּק שָׁחוֹר מְשׁוּקָּע – הֲרֵי זֶה מוּם, צָף – אֵינוֹ מוּם; דַּק לָבָן מְשׁוּקָּע – אֵינוֹ מוּם, צָף – הֲרֵי זֶה מוּם. וְסִימָנֵיךְ: בַּרְקָא.

This is **as Rabba bar bar Ḥana says: Yoshiya from Usha told me** that with regard to **a black cataract,** if it is **sunken**[B] **it is a blemish,** but if it is **floating it is not a blemish.** Conversely, with regard to **a white cataract,** if it is **sunken it is not a blemish,** whereas if it is **floating it is a blemish. And your mnemonic** to remember this is ***barka,*** which is a disease in which white patches float above the eye, and it is considered a blemish.

״חִלָּזוֹן נָחָשׁ וְעָצָב״. אִיבַּעְיָא לְהוּ: חִלָּזוֹן הוּא נָחָשׁ, אוֹ דִלְמָא: חִלָּזוֹן אוֹ נָחָשׁ?

§ The mishna included in its list of blemishes of the eye a growth in the shape of **a snail, a snake, or a berry** that covers the pupil. **A dilemma was raised before** the Sages: **Is the snail** mentioned in the mishna the same as **the snake, or perhaps** they are two distinct blemishes, and the mishna means **a snail or a snake?**

תָּא שְׁמַע, דְּאָמַר רַבָּה בַּר בַּר חָנָה, סָח לִי רַבִּי יוֹחָנָן בֶּן אֶלְעָזָר: זָקֵן אֶחָד הָיָה בִּשְׁכוּנָתֵינוּ, וְרַבִּי שִׁמְעוֹן בֶּן יוֹסֵי לָקוֹנְיָא שְׁמוֹ, וּמִימַי לֹא עָבַרְתִּי לְפָנָיו. פַּעַם אַחַת עָבַרְתִּי לְפָנָיו, אָמַר לִי: שֵׁב בְּנִי, שֵׁב! חִלָּזוֹן זֶה – מוּם קָבוּעַ לִשְׁחוֹט עָלָיו, וְזֶהוּ נָחָשׁ שֶׁאָמְרוּ חֲכָמִים.

The Gemara answers: **Come** and **hear, as Rabba bar bar Ḥana says: Rabbi Yoḥanan ben Elazar told me: There was a certain elder in our neighborhood, and Rabbi Shimon ben Yosei Lakonya**[P] was **his name, and in** all **my days I did not pass before him.** But **once I did pass before him,** and **he said to me: Sit, my son, sit,** and I will teach you one matter: **This snail** that you see in the eye of a firstborn is **a permanent blemish,** and it is permitted **to slaughter** the animal **on its account. And this is** also **the snake mentioned by the Sages** as a blemish.

וְאַף עַל פִּי שֶׁאָמְרוּ: אֵין אָדָם רוֹאֶה מוּמִין לְעַצְמוֹ – אֲבָל מוֹרֶה הֲלָכָה לְתַלְמִידִים, וְתַלְמִידִים מוֹרִין לוֹ.

Rabbi Shimon ben Yosei Lakonya adds: **And even though** the Sages **said** that **a person cannot see blemishes for himself,** and therefore I cannot permit this firstborn to myself, **even so** a halakhic authority **may issue a halakhic ruling to** his **students, and the students may** then **issue** a halakhic **ruling for him** based on what he taught them. Consequently, once I have taught you this *halakha*, you may permit my firstborn to me due to this blemish.

PERSONALITIES

Rabbi Shimon ben Yosei Lakonya – רַבִּי שִׁמְעוֹן בֶּן יוֹסֵי לָקוֹנְיָא: Rabbi Shimon ben Yosei Lakonya was a member of the court of Rabbi Yehuda HaNasi in the last generation of *tanna'im*, and he taught the first generation of *amora'im*. According to some sources, he was the father-in-law (see Jerusalem Talmud) or brother-in-law of Rabbi Elazar, son of Rabbi Shimon bar Yoḥai, and he transmitted several of Rabbi Shimon's statements. In addition, he raised Rabbi Elazar's son after Rabbi Elazar's death. It is known that Rabbi Shimon ben Yosei Lakonya was a priest and he probably lived in Tiberias. A number of halakhic and aggadic statements made by him are found in the Talmud.

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וְהָאָמַר רַבִּי אַבָּא אָמַר רַב הוּנָא: כָּל תַּלְמִיד חָכָם שֶׁמּוֹרֶה הֲלָכָה וּבָא, אִם קוֹדֶם מַעֲשֶׂה אֲמָרָהּ – שׁוֹמְעִין לוֹ, וְאִם לָאו – אֵין שׁוֹמְעִין לוֹ! אִיהוּ נַמִי, מוֹרֶה וּבָא הֲוָה מֵעִיקָּרָא.

The Gemara asks: How could Rabbi Yoḥanan ben Elazar permit the firstborn in this manner? **But doesn't Rabbi Abba say** that **Rav Huna says:** With regard to **any Torah scholar who is engaged in issuing** a ruling of ***halakha***[HN] in a situation relevant to himself, **if he** already **stated** the ruling **before the incident,** i.e., before it was relevant to him, **one listens to him; and if not,** i.e., the ruling followed the incident, one **does not listen to him?** The Gemara answers that **he too,** Rabbi Shimon ben Yosei Lakonya, **was engaged in issuing** this ruling of *halakha* **at the outset,** before it became relevant to him.

"אֵיזֶהוּ תְּבַלּוּל – לָבָן הַפּוֹסֵק אֶת הַסְּיָרָא". מַתְנִיתִין מַנִּי? רַבִּי יוֹסֵי הִיא, דְּתַנְיָא: לָבָן וְנִכְנָס בַּשָּׁחוֹר, שָׁחוֹר וְנִכְנָס בַּלָּבָן – הֲרֵי זֶה מוּם, דִּבְרֵי רַבִּי מֵאִיר. רַבִּי יוֹסֵי אוֹמֵר: לָבָן וְנִכְנָס בַּשָּׁחוֹר – הֲרֵי זֶה מוּם, שָׁחוֹר וְנִכְנָס בַּלָּבָן – אֵינוֹ מוּם, שֶׁאֵין מוּמִין בַּלָּבָן.

§ The mishna further stated: **What is a *tevallul*?** It is **a white** thread **that bisects the iris** and enters the black pupil. The Gemara asks: **Whose** opinion is expressed in **the mishna? It is** the opinion of **Rabbi Yosei, as it is taught** in a *baraita*: If there is either **a white** thread that **enters the black,** or **a black** thread that **enters the white,** it **is a blemish;** this is **the statement of Rabbi Meir. Rabbi Yosei says:** If it is **a white** thread that **enters the black, it is a blemish,** but if it is **a black** thread that **enters the white, it is not a blemish, as there are no blemishes in the white** of the eye.

אָמַר רַב: מַאי טַעְמָא דְּרַבִּי יוֹסֵי? דִּכְתִיב: "יָצָא מֵחֵלֶב עֵינֵימוֹ", תִּרְבָּא דְּעֵינָא אִיקְּרֵי, עֵינֵימוֹ סְתָמָא לָא אִיקְּרֵי. וְרַבִּי מֵאִיר מַאי טַעְמֵיהּ? מַה לְשׁוֹן "תְּבַלּוּל" – דָּבָר הַמְבַלְבֵּל אֶת הָעֵינַיִם.

Rav says: What is the reason of Rabbi Yosei? As it is written: "Their eyes stand forth from fatness" (Psalms 73:7),[N] which is interpreted to mean that the wicked embark on an evil path due to the fatness in the eyes, which is in the white portion. This indicates that the white portion **is called the fat of the eye,** but **it is not called simply: Their eyes.** Conversely, a *tevallul* is considered a blemish only if it is in the eye itself, as it states: "Or *tevallul* in his eye" (Leviticus 21:20). The Gemara further asks: **And** with regard to **Rabbi Meir, what is his reason?** The Gemara answers that Rabbi Meir would explain as follows: **What is** the meaning of the **expression *tevallul*?** It is **a substance that mixes** [***hamevalbel***] within **the eyes,** i.e., which passes through the white and the black in any fashion.

מתני' חֲוַרְוּר וְהַמַּיִם הַקְּבוּעִין. אֵיזֶהוּ חֲוַרְוּר הַקָּבוּעַ – כָּל שֶׁשָּׁהָה שְׁמוֹנִים יוֹם. רַבִּי חֲנַנְיָא בֶּן אַנְטִיגְנוֹס אָמַר: בּוֹדְקִין אוֹתוֹ שָׁלֹשׁ פְּעָמִים בְּתוֹךְ שְׁמוֹנִים יוֹם.

MISHNA **Pale spots** on the eye **and tears** streaming from the eye **that are constant**[BN] are blemishes that enable the slaughter of the firstborn. **Which are the pale spots that are constant?** They are **any** spots **that persisted** for **eighty days. Rabbi Ḥananya ben Antigonus said: One examines it three times within eighty days.** Only if the spots are found during all three examinations are they considered constant.

וְאֵלּוּ הֵן מַיִם הַקְּבוּעִין: אָכַל לַח וְיָבֵשׁ שֶׁל גְּשָׁמִים, לַח וְיָבֵשׁ שֶׁל שְׁלָחִים, אוֹ אָכַל הַיָּבֵשׁ וְאַחַר כָּךְ הַלַּח – אֵינוֹ מוּם, עַד שֶׁיֹּאכַל הַלַּח וְאַחַר כָּךְ הַיָּבֵשׁ.

And these are the constant tears, i.e., this is how it is known whether the blemish is temporary or permanent: In a case where the animal **ate,** for medicinal purposes, **moist** fodder **and dry** fodder **from** a field watered exclusively with **rain,** or if the animal ate **moist** fodder **and dry** fodder **from** an **irrigated** field, **or** even if the animal did not eat them together but **ate the dry** fodder **and thereafter** ate **the moist** fodder, and the condition of constant tears was not healed, **it is not a blemish.** It is not a blemish **unless** the animal **eats the moist** fodder **and thereafter** eats **the dry** fodder and is not thereby healed.

HALAKHA

Any Torah scholar who is engaged in issuing a ruling of *halakha* – כָּל תַּלְמִיד חָכָם שֶׁמּוֹרֶה הֲלָכָה וּבָא: If a Torah scholar issues a halakhic ruling in a case that involves him personally, he is listened to only if he issued his decision before the incident occurred. This applies only to an opinion he cites as a tradition from his teacher, but if he offers his own reasoning he is listened to if his reasoning is simple and logical (*Nimmukei Yosef*, citing the Ritva). If it is not simple and logical, it is not accepted alone without examination, in case he is suggesting a mistaken comparison due to his personal involvement (*Shulḥan Arukh*, *Yoreh De'a* 242:36 in the comment of Rema, and see *Taz* there).

BACKGROUND

Pale spots on the eye and tears streaming from the eye that are constant – חֲוַרְוּר וְהַמַּיִם הַקְּבוּעִין: Some maintain that the constant tears here are referring to cataracts. Yet since the mishna speaks of a dietary treatment, it is probably referring to an inflammatory disease that can be healed with proper care. It is possible that this is chronic uveitis, which can severely impair eyesight.

NOTES

Any Torah scholar who is engaged in issuing a ruling of *halakha* – כָּל תַּלְמִיד חָכָם שֶׁמּוֹרֶה הֲלָכָה וּבָא: The early commentaries write that there is certainly no suspicion that the Sage is lying on purpose. Rather, the concern is that in an effort to offer proof for his opinion, he might have mistakenly thought that he received a tradition to this effect from his teacher (Ritva on *Yevamot* 77a), or he might draw an invalid comparison between two dissimilar cases (Rosh).

Their eyes stand forth from fatness – יָצָא מֵחֵלֶב עֵינֵימוֹ: The straightforward meaning of this verse is that the eyes of the wicked protrude due to excessive fat, as though they are coming out of their sockets. The Sages, though, interpret the verse as saying that the wicked embark on an evil path due to excessive fat in the eye, i.e., due to overeating (Rashi).

Pale spots [*ḥavarvar*] on the eye and tears streaming from the eye that are constant – חֲוַרְוּר וְהַמַּיִם הַקְּבוּעִין: The description of constancy refers both to the tears and the pale spots. According to Rava on 44a, the mishna is speaking of two phenomena that cause loss of vision. Rashi states that the pale spots are a disease of the eye in which white spots appear in the eye, or in in the black of the eye according to others (Rabbeinu Gershom Meor HaGola). It is possible that Rashi associates the word *ḥavarvar* with *ḥivaron*, paleness. Rabbeinu Gershom Meor HaGola cites an alternative explanation, that this refers to a membrane on the eye. The Rambam suggests a third explanation, that it means a loss of sight or blurriness of vision that is not accompanied by an exterior indication of a blemish.

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גמ׳ מַתְנִיתִין מַנִּי? רַבִּי יְהוּדָה הִיא. דְּתַנְיָא: חֲוָרָוור קָבוּעַ – אַרְבָּעִים יוֹם, וּמַיִם הַקְּבוּעִים – שְׁמוֹנִים יוֹם, דִּבְרֵי רַבִּי מֵאִיר. וְרַבִּי יְהוּדָה אוֹמֵר: חֲוָרָוור – שְׁמוֹנִים יוֹם.

GEMARA The Gemara asks: **Whose** opinion is expressed in **the mishna? It is** the opinion of **Rabbi Yehuda, as it is taught** in a *baraita*: A blemish of **constant pale spots**[H] is a condition that persisted for **forty days, and constant tears**[H] is a condition that persisted for **eighty days;** this is **the statement of Rabbi Meir. And Rabbi Yehuda says:** A blemish of constant **pale spots** is a condition that persisted for **eighty days.**

וְאֵלּוּ הֵן מַיִם הַקְּבוּעִים: אָכַל לַח וְיָבֵשׁ שֶׁל בֵּית הַשְּׁלָחִין, אוֹ שֶׁאָכַל יָבֵשׁ וְאַחַר כָּךְ אָכַל הַלַּח – אֵין מוּם, עַד שֶׁיֹּאכַל יָבֵשׁ אַחַר הַלַּח. וְיֶשְׁנוֹ שְׁלֹשָׁה חֳדָשִׁים.

The *baraita* continues: **And these are the constant tears,** according to the opinion of Rabbi Yehuda: In a case where the animal **ate moist** fodder **and dry** fodder **from** an **irrigated** field, **or ate the dry** fodder **and thereafter ate the moist** fodder, and the animal was not healed, its status as **a blemish is not** certain. It is not a blemish **unless** the animal **eats the dry** fodder **after** eating **the moist** fodder and is not thereby healed. **And the duration of** this period of eating moist and then dry fodder extends for **three months.**

וְהָא תַּרְוַיְיהוּ תְּנַנְהִי: אָכַל לַח וְיָבֵשׁ שֶׁל גְּשָׁמִים, לַח וְיָבֵשׁ שֶׁל בֵּית הַשְּׁלָחִין!

The Gemara asks: **But** how can the mishna be in accordance with the opinion of Rabbi Yehuda? **We learned** about **two** types of fields in the mishna: A case where the animal **ate moist** fodder **and dry** fodder **from** a field watered exclusively with **rain** and a case where the animal ate **moist** fodder **and dry** fodder **from** an **irrigated** field and was not healed. In either case, it is not a blemish. By contrast, Rabbi Yehuda mentioned only moist fodder and dry fodder from a field that requires irrigation, from which it can be inferred that if the animal was fed moist fodder and dry fodder from a field watered exclusively with rain and it was not healed, its condition is a blemish.

חַסּוּרֵי מִיחְסְרָא וְהָכִי קָתָנֵי: אָכַל לַח וְיָבֵשׁ שֶׁל גְּשָׁמִים – הֲרֵי זֶה מוּם, בֵּית הַשְּׁלָחִין – אֵינוֹ מוּם. וְהַגְּשָׁמִים נַמִּי, אָכַל יָבֵשׁ וְאַחַר כָּךְ אָכַל לַח – אֵינוֹ מוּם, עַד שֶׁיֹּאכַל יָבֵשׁ אַחַר הַלַּח.

The Gemara answers that the mishna **is incomplete and this** is what **it is teaching,**[B] in accordance with the ruling of Rabbi Yehuda in the *baraita*: If the animal **ate moist** fodder **and dry** fodder **from** a field watered exclusively with **rain, it is a blemish.** If it ate moist fodder and dry fodder from an **irrigated** field, **it is not a blemish. And** with regard to a field watered exclusively with **rain as well,** if it **ate the dry** fodder **and thereafter ate the moist** fodder **it is not a blemish.** It is a not blemish **until** the animal **eats the dry** fodder **after the moist** fodder.

וְיֶשְׁנוֹ שְׁלֹשָׁה חֳדָשִׁים. אִינִי? וְהָתַנְיָא, וְהָא רַב אִידִי בַּר אָבִין אָמַר רַב יִצְחָק בַּר אָשִׁיָאן: אֲדָר וְנִיסָן – לַח, אֱלוּל וְתִשְׁרֵי – יָבֵשׁ! אֵימָא: אֲדָר וַחֲצִי נִיסָן – לַח, אֱלוּל וַחֲצִי תִּשְׁרֵי – יָבֵשׁ.

With regard to the statement of the *baraita*: **And the duration of** this period of eating moist and then dry fodder lasts for **three months,** the Gemara asks: **Is that so? But isn't it taught that Rav Idi bar Avin says** that **Rav Yitzḥak bar Ashiyan** says: The months of **Adar and Nisan** are the **moist** period mentioned in the mishna, as the fodder is still moist at that time of year; and the months of **Elul and Tishrei** are the **dry** period, as this is the end of summer? In total, there are four months, not three. The Gemara answers that one should **say** as follows: The months of **Adar and half of Nisan** are the **moist** period, and the months of **Elul and half of Tishrei** are the **dry** period, for a total of three months.

אִיבַּעֲיָא לְהוּ: לַח בִּזְמַן לַח וְיָבֵשׁ בִּזְמַן יָבֵשׁ, אוֹ דִלְמָא: לַח וְיָבֵשׁ בִּזְמַן הַלַּח?

With regard to the ruling of the mishna that the animal must be given moist fodder and then dry fodder, **a dilemma was raised before** the Sages: Does this mean it must be fed **moist** fodder **at the time of moist** fodder, i.e., at the end of the rainy season, **and dry** fodder **at the time of dry** fodder, at the conclusion of summer? **Or perhaps** it is fed **moist** fodder **and** then **dry** fodder leftover from the previous summer, both **at the time of moist** fodder.[HN]

HALAKHA

Constant pale spots – חֲוָרָוור קָבוּעַ: If an animal is unable to see clearly with both eyes, or even one of them, due to a permanent affliction of blindness [*sanverim*], this is a blemish. It is considered permanent if it lasts eighty days. During this period the animal is examined three times, in accordance with the opinion of Rabbi Ḥananya ben Antigonus. In the present time, when there are no experts in these matters, one cannot permit a firstborn due to any of the blemishes mentioned in the mishna (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:5 and *Hilkhot Issurei Mizbe'aḥ* 2:12; *Tur*, *Yoreh De'a* 309; *Shulḥan Arukh*, *Yoreh De'a* 309:2).

Constant tears – מַיִם הַקְּבוּעִים: If an animal is unable to see clearly with both eyes, or even one of them, due to a constant flow of tears, this is a blemish despite the fact that there is nothing visibly wrong with its eyes. How can one know that the tears are constant? If the animal ate moist fodder from the beginning of the month of Adar until halfway through Nisan, and it then ate dry fodder through Elul and half of Tishrei and was not healed, these are considered constant tears. This is in accordance with the ruling of the *baraita* that this period of eating moist and then dry fodder lasts for three months. The Rambam does not rule in accordance with the answer of the Gemara that the mishna is lacking and that the moist and dry fodder from a field that requires irrigation is not considered an examination (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:5 and *Hilkhot Issurei Mizbe'aḥ* 2:13, and see the commentaries there).

Moist fodder and then dry fodder leftover from the previous summer at the time of moist fodder – לַח וְיָבֵשׁ בִּזְמַן הַלַּח: If an animal possibly afflicted with constant tears was given moist fodder for the entire month of Adar and half of Nisan, as required, and it then ate dry fodder for the other half of Nisan and all of Iyar, and it was not healed, it is uncertain whether this is a permanent or temporary blemish. Therefore, the animal is not sacrificed upon the altar but is not redeemed either, and if one inflicted a different permanent blemish upon it, he is not flogged. The reason is that this dilemma is left unresolved by the Gemara (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:15).

NOTES

Moist fodder and then dry fodder leftover from the previous summer at the time of moist fodder – לַח וְיָבֵשׁ בִּזְמַן הַלַּח: The Gemara does not entertain the possibility that the animal might be fed both moist and dry fodder during the period of dry fodder, as at that time of year the moist fodder would become dried up (*Ḥazon Ish*).

BACKGROUND

The mishna is incomplete and this is what it is teaching – חַסּוּרֵי מִיחְסְרָא וְהָכִי קָתָנֵי: This method of explanation is often found in the Gemara. The addition introduced by the Gemara is an elaboration upon that which is written in the mishna, based on various difficulties raised in the Gemara that render the mishna in its original form incoherent or inconsistent with another authoritative source. The addition provides the necessary clarification.

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תָּא שְׁמַע, דְּאָמַר רַב אִידִי בַּר אָבִין אָמַר רַב יִצְחָק בַּר אָשִׁיאָן: אֲדָר וְנִיסָן – לַח, אֱלוּל וְתִשְׁרֵי – יָבֵשׁ. דִּלְמָא פֵּירֵי דְּאֱלוּל וְתִשְׁרֵי מַאֲכִילְנָא לֵיהּ בַּאֲדָר וְנִיסָן!

The Gemara suggests: **Come** and **hear, as Rav Idi bar Avin says** that **Rav Yitzḥak bar Ashiyan said:** The months of **Adar and Nisan** are the period of **moist** fodder; **Elul and Tishrei** are the period of **dry** fodder. This indicates that the animal is given the fodder that is available at that time. The Gemara refutes this proof: That statement is not necessarily referring to the time when it is fed, as **perhaps one feeds it the produce of Elul and Tishrei in Adar and Nisan.**

וְכַמָּה מַאֲכִילִין אוֹתוֹ? אָמַר רַבִּי יוֹחָנָן מְשׁוּם רַבִּי פִּנְחָס בֶּן עֲרוֹבָא: כִּגְרוֹגֶרֶת. אָמַר רָבָא, בָּעֵי בְּמַעְרְבָא: כִּגְרוֹגְרוֹת בִּסְעוּדָה רִאשׁוֹנָה,

The Gemara asks: **And how much does one feed it? Rabbi Yoḥanan says in the name of Rabbi Pineḥas ben Arova:** One feeds it the amount **of a fig-bulk. Rava says: They raise a dilemma in the West,** Eretz Yisrael: Does this mean that it is fed the amount **of a fig-bulk at** its **first meal**[H] each day,

HALAKHA

The amount of a fig-bulk at its first meal – כִּגְרוֹגְרוֹת בִּסְעוּדָה רִאשׁוֹנָה: How much fodder must such an animal be fed for the purposes of this examination? It must be fed the amount of a fig-bulk or more, as stated by Rabbi Yoḥanan, citing Rabbi Pineḥas ben Arova (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:14).

Perek **VI**
Daf **39** Amud **a**

אוֹ דִלְמָא בְּכָל סְעוּדָה וּסְעוּדָה? אִם תֵּימְצֵי לוֹמַר בִּסְעוּדָה רִאשׁוֹנָה, קוֹדֶם אֲכִילָה אוֹ לְאַחַר אֲכִילָה? קוֹדֶם אֲכִילָה – וַדַּאי מְעַלֵּי לֵיהּ כְּסַמָּא, לְאַחַר אֲכִילָה מַאי? קוֹדֶם שְׁתִיָּה אוֹ לְאַחַר שְׁתִיָּה? וְקוֹדֶם שְׁתִיָּה – וַדַּאי מְעַלֵּי לֵיהּ כְּשַׂעֲרֵי, לְאַחַר שְׁתִיָּה מַאי?

or perhaps does it mean it is fed the amount of a fig-bulk **at each and every meal? If you say** that it is fed a fig-bulk only **at the first meal,**[H] is it fed this fodder **before** its regularly scheduled **eating or after eating?** The Gemara elaborates: **Before eating,** it is **certainly effective for it like a medicine,** which people imbibe before their meals. With regard to **after eating, what** is the *halakha*? Is this an effective manner of examining the animal? The Gemara further inquires: Is the animal fed this fodder as a medicine **before drinking or after drinking? Before drinking**[H] **it is certainly effective for it, like barley,** which is fed to an animal before it drinks. With regard to **after drinking, what** is the *halakha*?

קָשׁוּר אוֹ מוּתָּר? מוּתָּר – וַדַּאי מְעַלֵּי לֵיהּ, קָשׁוּר מַאי? לְבַדּוֹ אוֹ עִם חֲבֵירוֹ? עִם חֲבֵירוֹ – וַדַּאי מְעַלֵּי לֵיהּ, לְבַדּוֹ מַאי?

The Gemara continues to inquire: Is the animal given the fodder when it is **tied or untied?** The Gemara explains: When it is **untied,** the fodder is **certainly effective for this** animal. When it is **tied, what** is the *halakha*? Furthermore, is it fed the fodder when it is **by itself, or with another** animal? When it is **with another** animal, the fodder **is certainly effective for** this animal, as it is comfortable. When it is **by itself, what** is the *halakha*?

בָּעִיר וּבַשָּׂדֶה? בַּשָּׂדֶה – וַדַּאי מְעַלֵּי לֵיהּ, בָּעִיר מַאי? בָּעֵי רַב אַשִׁי: אִם תֵּימְצֵי לוֹמַר בַּשָּׂדֶה, גִּינָּה הַסְמוּכָה לָעִיר מַאי? תֵּיקוּ.

Likewise, is the animal fed it **in the city or in the field?** When it is **in the field,** the fodder **is certainly effective for** this animal, as it is calm. When it is **in the city, what** is the *halakha*? **Rav Ashi raises** a further **dilemma: If you say** that this treatment is effective only when it is **in the field,** not when it is the city, **what** is the *halakha* with regard to **a garden adjacent to the city?** No resolution is found for any of these inquiries, and with regard to each of them the Gemara states that the dilemma **shall stand** unresolved.

״רַבִּי חֲנַנְיָא בֶּן אַנְטִיגְנוֹס אוֹמֵר״. אָמַר רַב נַחְמָן בַּר יִצְחָק: וּבִלְבַד שֶׁיְּהוּ מְשׁוּלָּשִׁים.

§ The mishna teaches with regard to constant pale spots that **Rabbi Ḥananya ben Antigonus says:** One examines the animal three times within eighty days. **Rav Naḥman bar Yitzḥak says: And** this is the *halakha* **provided that they are divided into** equal **thirds,**[HN] i.e., there must be an even gap between each of these examinations.

HALAKHA

At the first meal – בִּסְעוּדָה רִאשׁוֹנָה: Fodder that is at least the size of a fig-bulk, which is fed to an animal to examine whether the tears it sheds are constant, must be given to it before its first meal of the day on each day, for three months. This follows the opinion of the Rambam that when the Gemara introduces a second dilemma with the phrase: If you say, the *halakha* is in accordance with the resolution of the first dilemma that is accepted as the basis of the second dilemma. The Rambam also rules in accordance with the statement of the Gemara that if the animal is given the fodder before it eats its meal, it is certainly effective (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:14).

Before drinking – קוֹדֶם שְׁתִיָּה: The animal must eat the fodder after it drinks. The Rambam rules in this manner because his version of the Gemara stated the opposite of the standard version of the text (*Kesef Mishne*). The animal should not be tied in the field when it eats, nor should it be alone; rather, it should be grazing together with another animal. If it ate a fig-bulk after its meal, or before it drank, or if it was tied, or if it was alone, or if it was in a garden adjacent to the city, and it was not healed, in all these cases it is uncertain whether the animal has a temporary or a permanent blemish. Consequently, it is not sacrificed upon the altar but is not redeemed either, and if one inflicted a different permanent blemish upon it, he is not liable to receive lashes. The reason is that these dilemmas are left unresolved by the Gemara (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:14–15).

And this is the *halakha* provided that they are divided into equal thirds – וּבִלְבַד שֶׁיְּהוּ מְשׁוּלָּשִׁים: If an animal is unable to see clearly with both eyes or even one of them due to an apparently permanent state of blindness, it should be examined three times: On the twenty-seventh day from when this condition was discerned, on the fifty-fourth day, and on the eightieth day. This ruling is in accordance with the opinion of Rav Naḥman (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:12).

NOTES

And this is the *halakha* provided that they are divided into equal thirds – וּבִלְבַד שֶׁיְּהוּ מְשׁוּלָּשִׁים: Rashi and the Rambam explain that the eighty days are divided into thirds, counting from the day when the pale spots appear, which Rashi understands to refer to white spots in the eye but the Rambam explains as referring to blindness or blurriness of vision. Consequently, one must examine the animal on the twenty-seventh day, the fifty-fourth day, and the eightieth day. Others contend that the day on which the spots are discovered is considered the first examination, after which the animal is examined again on the fortieth and eightieth days (*Tosafot*).

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BACKGROUND

If its nostrils were pierced…on the outside – נִיקְּבוּ חוֹטָמִין...מִבַּחוּץ:



Cow's nose pierced by a ring on the outside

בָּעֵי מִינֵיהּ פִּנְחָס אֲחוּהּ דְּמָר שְׁמוּאֵל מִשְּׁמוּאֵל: אֲכַל וְלָא אִיתַּסִּי – לְמַפְרֵעַ הָוֵי מוּמָא, אוֹ מִיכָּן וּלְהַבָּא הָוֵי מוּמָא?

With regard to the statement of the mishna that constant tears are examined by feeding the animal moist and then dry fodder for a period of three months, **Pineḥas, the brother of Mar Shmuel, raises a dilemma before Shmuel:** If the animal **ate** the fodder in the required manner **and was not healed,**[H] which means that it is blemished, **is it a retroactive blemish** from the day it was discovered, **or is it a blemish from that point forward?**

לְמַאי נָפְקָא מִינָּה – לְמִימְעַל בְּפִדְיוֹנוֹ; אִי אָמְרַתְּ לְמַפְרֵעַ הָוֵי מוּמָא – מָעֵיל,

The Gemara asks: **What is the** practical **difference?** The Gemara answers: It is **with regard to** whether one has violated the prohibition of **misuse** of consecrated property **concerning its redemption** money in a case where a consecrated animal was redeemed before the end of the three months of examination and someone derived benefit from the money paid for its redemption. **If you say** that **it is a retroactive blemish,** he thereby **misuses** consecrated property, as the redemption was effective and the money belongs to the Temple treasury.

וְאִי מִיכָּן וּלְהַבָּא הָוֵי מוּמָא – לָא מָעֵיל. מַאי? קָרֵי שְׁמוּאֵל עֲלֵיהּ: ״פִּסְחִים בָּזְזוּ בַּ(ו)ז״.

But if it is a blemish from that point forward, then one who derived benefit from money paid before that point has **not misused** consecrated property, as an unblemished animal cannot be redeemed, and the money remains non-sacred. **What,** then, is the *halakha*? **Shmuel read** this verse **with regard to his** brother: **"The lame take the prey"** (Isaiah 33:23), i.e., one who is not learned in Torah has managed to ask a question for which I have no answer.

מתני׳ חוֹטְמוֹ שֶׁנִּיקַּב וְשֶׁנִּפְגַּם וְשֶׁנִּסְדַּק. שֶׁפָּמוֹ שֶׁנִּיקְּבָה, שֶׁנִּפְגְּמָה, שֶׁנִּסְדְּקָה.

MISHNA For these additional blemishes, one may slaughter a firstborn animal outside the Temple: **Its nose that was pierced, or that was damaged** and is lacking, **or that was split.**[H] Likewise, **its lip that was pierced,** or **that was damaged,** or **that was split**[H] is considered a blemish.

גמ׳ תָּנוּ רַבָּנַן: נִיקְּבוּ חוֹטָמִין זֶה לְתוֹךְ זֶה, מִבַּחוּץ – הֲרֵי זֶה מוּם, מִבִּפְנִים – אֵינוֹ מוּם. ״שֶׁפָּתוֹ שֶׁנִּיקְּבָה וְשֶׁנִּפְגְּמָה וְשֶׁנִּסְדְּקָה״. אָמַר רַב פַּפָּא: תּוּרָא בָּרָא דְּשִׁיפְתֵּיהּ.

GEMARA With regard to the case of the nose that was pierced, **the Sages taught** in a *baraita*: In a case where **its nostrils were pierced one into the other,**[H] if the perforation is visible **on the outside**[B] of the nostril, **this is a blemish;** if it is visible only **on the inside** of the nostril, **it is not a blemish.** With regard to the case of: **Its lip that was pierced or that was damaged or that was split, Rav Pappa says:** This is referring to **the outer row,** i.e., the front, protruding part **of its lip.**

HALAKHA

If the animal ate the fodder in the required manner and was not healed – אֲכַל וְלָא אִיתַּסִּי: If an animal was examined to determine whether the tears in its eyes were constant, and the examination indicated that the animal was blemished, it is uncertain whether it is considered permanently blemished retroactively from when the tears started or only from when they despaired of healing it. Consequently, if the animal was redeemed between these periods and someone derived benefit from its redemption money after they despaired of healing it, it is uncertain whether or not he has misused consecrated property and therefore he does not bring an offering for misuse of consecrated property (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:16).

Its nose that was pierced or that was damaged or that was split – חוֹטְמוֹ שֶׁנִּיקַּב וְשֶׁנִּפְגַּם וְשֶׁנִּסְדַּק: There are three blemishes of the nose: A pierced nose, even one pierced on one side; a split nose; and a damaged nose. Some commentaries do not include these in the list of blemishes for which one may slaughter the animal nowadays, as at present there are no experts in these matters (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:6; *Tur*, *Yoreh De'a* 309).

Its lip that was pierced or that was damaged or that was split – שֶׁפָּמוֹ שֶׁנִּיקְּבָה שֶׁנִּפְגְּמָה שֶׁנִּסְדְּקָה: These are the blemishes of the mouth: A pierced lip, even if only one lip was pierced; a damaged lip; or a lip split on the outer edge, dividing it into two (Rambam *Hilkhot Avoda*, *Hilkhot Biat HaMikdash* 7:7).

Its nostrils were pierced one into the other – נִיקְּבוּ חוֹטָמִין זֶה לְתוֹךְ זֶה: If the skin between the nostrils of an animal was visibly pierced, this is a blemish. This *halakha* is in accordance with the ruling of the *baraita* (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2, and see Mahari Kurkus there).

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מתני׳ חוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ וְשֶׁנִּגְּמְמוּ, הַפְּנִימִים – שֶׁנֶּעֱקְרוּ. רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: אֵין בּוֹדְקִין מִן הַתְּיוֹמֶת וְלִפְנִים, וְאַף לֹא אֶת הַתְּיוֹמֶת.

MISHNA The mishna lists additional blemishes that permit the slaughter of the firstborn: **The external gums**[B] **that were damaged**[NH] and lacking **or that were scratched,** and likewise, **the internal** gums **that were extracted. Rabbi Ḥanina ben Antigonus says: One does not examine from the double teeth,** i.e., the large molars that appear like two teeth, **and inward, and** one does **not** examine **even the** place of the **double teeth** themselves. This is because even if they were extracted, it is a concealed blemish, and it does not permit the slaughter of the firstborn.

גמ׳ תָּנוּ רַבָּנַן: הַתְּיוֹמֶת, אֵיזֶהוּ תְּיוֹמֶת – מִן הַתְּיוֹמֶת וְלִפְנִים, וּתְיוֹמֶת עַצְמָהּ כִּלְפְנִים. רַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹצַאי אוֹמֵר: אֵין שׁוֹחֲטִין אֶלָּא עַל הַחִיצוֹנוֹת בִּלְבָד. רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: אֵין מַשְׁגִּיחִין עַל הַתְּיוֹמֶת כָּל עִיקָּר.

GEMARA **The Sages taught** in a *baraita*: When the mishna is referring to **the double teeth, what are the double teeth?** The area **from the double teeth and inward, and the double teeth themselves, are** considered **like the inward** part, i.e., the location of a concealed blemish, for which one may not slaughter the animal. **Rabbi Yehoshua ben Kefutzai says: One slaughters** the firstborn **only for** a blemish of **the outer** teeth **alone. Rabbi Ḥanina ben Antigonus says: One does not consider the double teeth at all.**

מַאי קָאָמַר? וְתוּ, רַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹצַאי הַיְינוּ תַּנָּא קַמָּא!

The Gemara notes that the *baraita* asks about the double teeth but does not answer the question: **What is** the *tanna* **saying? And furthermore,** the opinion of **Rabbi Yehoshua ben Kefutzai is** the same as that of **the first *tanna*,** as they both maintain that a blemish to the double teeth is considered a concealed blemish.

חַסּוּרֵי מִיחַסְּרָא וְהָכִי קָתָנֵי: אֵיזֶהוּ הַפְּנִימִית? מִן הַתְּיוֹמֶת וְלִפְנִים, וּתְיוֹמֶת עַצְמָהּ כִּלְפְנִים. בַּמֶּה דְּבָרִים אֲמוּרִים? שֶׁנִּפְגְּמוּ וְשֶׁנִּגְּמְמוּ, אֲבָל נֶעֱקְרוּ – שׁוֹחֲטִין.

The Gemara answers that the *baraita* **is incomplete and this** is what **it is teaching: What** are **the inner** gums, for which a firstborn is not slaughtered if a blemish was found there? The inner gums are located **from** the place of **the double teeth and inward, and the double teeth themselves are** considered **like the inward** part. **In what** case **is this statement,** that one does not slaughter the animal, **said?** It is said in a case **where** the inner gums **were damaged or were scratched. But** if **they were extracted, one does slaughter** the firstborn for this blemish.

רַבִּי יְהוֹשֻׁעַ בֶּן קְפוֹצַאי אוֹמֵר: אֵין שׁוֹחֲטִין אֶלָּא עַל הַחִיצוֹנוֹת, אֲבָל פְּנִימִיּוֹת שֶׁנֶּעֱקְרוּ – מִישְׁחַט עֲלַיְיהוּ לָא שָׁחֲטִינַן, אֲבָל אִפְּסוּלֵי מִיפְּסַל. רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: אֵין מַשְׁגִּיחִין עַל הַתְּיוֹמֶת כָּל עִיקָּר, וְאֶפִילּוּ אִיפְּסוּלֵי לָא אִיפְּסֵיל.

The Gemara continues its interpretation of the *baraita*. **Rabbi Yehoshua ben Kefutzai says: One slaughters** the firstborn **only for** a blemish of **the outer** teeth. **But** with regard to the **inner** gums **that were extracted, one does not slaughter** the animal **for them, but it is disqualified** as an offering. **Rabbi Ḥanina ben Antigonus says: One does not pay attention to the double teeth at all, and** a blemish there **does not even disqualify** the firstborn from sacrifice.

בָּעֵי רַב אַחַדְבוֹי בַּר אַמִי: יֵשׁ מְחוּסַּר אֵבָר מִבִּפְנִים, אוֹ אֵין מְחוּסַּר אֵבָר מִבִּפְנִים? לְמַאי? אִי לְבְכוֹר – ״פִּסֵּחַ אוֹ עִוֵּר״ כְּתִיב,

§ **Rav Aḥadvoi bar Ami raises a dilemma:** Is **there** halakhic significance to **the lack of a limb** that is **internal,**[H] **or is there no** halakhic significance to **the lack of a limb** that is **internal?** The Gemara inquires: **With regard to what** issue did he raise this dilemma? **If** it was **with regard to** whether such a blemish renders permitted the slaughter of **a firstborn** outside the Temple, **it is written: "Lameness or blindness"** (Deuteronomy 15:21), which indicates that the blemish must be exposed.

BACKGROUND

The external gums – חוּטִין הַחִיצוֹנוֹת: Like a lamb, a cow has teeth in the forefront of its bottom jaw, whereas in its upper jaw it does not have any teeth in the front of the mouth and has only cartilaginous gums. Rashi is probably referring to these in his explanation of external gums. Both on the upper jaw and the lower jaw there is a certain area of gums without teeth, which is probably the location of the internal gums referred to in the Gemara. The double teeth, *tiyomet*, or *matimot* according to the version of the text accepted by Rashi and found in most manuscripts, is the back row of molars, which are wide and have many protrusions so that each of them looks like two teeth.



Cow skull showing location of teeth and gums

NOTES

The external gums [*ḥutin*] that were damaged – חוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ: The translation of *ḥutin* as gums follows Rashi (37a), who further explains that this damage is referring to a deep vertical cut, in which no part of the gums is missing. Others maintain that *ḥutin* are teeth, and the damage is that they were broken but the roots remain intact (Rabbeinu Gershom Meor HaGola on 35a). Yet others contend that *ḥutin* are small, tongue-shaped pieces of flesh in the back of the palate, close to the opening of the pharynx. The outer pieces of flesh are more exposed, while the inner ones cover the opening of the windpipe. According to this interpretation, the damage is that they have shrunk (Rambam's Commentary on the Mishna).

HALAKHA

The external gums [*ḥutin*] that were damaged – חוּטִין הַחִיצוֹנוֹת שֶׁנִּפְגְּמוּ: If the external *ḥutin*, tongued-shaped pieces of flesh, were pierced or damaged, even if they remained partly intact, or if they shrunk, this is a blemish. The same applies if the inner *ḥutin* were uprooted, since when the animal opens its mouth, their absence is noticeable. Some commentaries do not include these in the list of blemishes for which one may slaughter the animal in the present time, as there are no experts in these matters nowadays (Rambam *Hilkhot Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:3; *Tur*, *Yoreh De'a* 309).

The lack of a limb that is internal – מְחוּסַּר אֵבָר מִבִּפְנִים: If a sacrificial animal was slaughtered and one of its internal limbs was found to be missing, even if it is not a *tereifa*, e.g., it had only one kidney or its spleen was missing, it is not offered upon the altar and must be burnt. The reason is not that it is considered blemished, as the lack of an internal limb is not considered a blemish that would permit its redemption. Rather, it is because one does not sacrifice an animal that is lacking in any manner, as derived from the verse (Numbers 28:19): "They shall be for you without defect" (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:11).

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אִי לְקָדָשִׁים – ״עִוֵּרֶת אוֹ שָׁבוּר״ כְּתִיב! לְאִישְׁחוּטֵי וּלְאֵיפְרוּזֵי לָא אִיבַּעֲיָא לָן; כִּי מִיבָּעֲיָא לָן – לְאֵיפְסוֹלֵי, מַאי?

If the dilemma was raised **with regard to** whether other **sacrificial** animals with such a blemish are thereby disqualified from being sacrificed and may be redeemed, **it is written:** "**Blind or broken**" (Leviticus 22:22), which are also types of exposed blemishes. The Gemara explains that **we do not raise** this **dilemma with regard to slaughtering** the firstborn **or redeeming** other sacrificial animals, as it is clearly not considered a blemish to that extent. Rather, **we raise the dilemma with regard to disqualifying** the animal from sacrifice. **What** is the *halakha*?

״תָּמִים יִהְיֶה לְרָצוֹן״ אָמַר רַחֲמָנָא, תָּמִים – אִין, חָסְרוֹן – לָא. אוֹ דִלְמָא: ״תָּמִים יִהְיֶה לְרָצוֹן כָּל מוּם לֹא יִהְיֶה בּוֹ״, מַה מוּם מֵאַבְרַאי – אַף חָסְרוֹן מֵאַבְרַאי?

The Gemara clarifies the dilemma. **The Merciful One states:** "**It shall be complete to be accepted**" (Leviticus 22:21), which indicates that **a complete** animal, **yes,** is fit as a sacrifice, but if it is **lacking** in any manner, even on the inside, it is **not** fit. **Or perhaps** one should interpret this phrase: "**It shall be complete to be accepted,**" in light of what is stated immediately afterward: "**There shall be no blemish therein.**" **Just as a blemish is on the outside,** as taught by the next verse, which says: "Blind or broken," **so too,** the status of **lacking** a limb applies only if it is lacking **on the outside.**

תָּא שְׁמַע: ״וְאֶת שְׁתֵּי הַכְּלָיוֹת״ – וְלֹא בַּעַל כּוּלְיָא אַחַת, וְלֹא בַּעַל שָׁלֹשׁ כּוּלְיוֹת. וְתַנְיָא אִידָךְ: ״יִסְירֶנָּה״ – לְרַבּוֹת בַּעַל כּוּלְיָא אַחַת.

The Gemara suggests: **Come** and **hear** that this matter is subject to a dispute. It is taught in one *baraita*: When it states with regard to the burning of the sacrificial portions of a peace offering: "**And the two kidneys**" (Leviticus 3:4), this teaches that one sacrifices only an animal that has two kidneys, **but not** an animal that **has one kidney, nor** one that **has three kidneys.**[HB] **And** it **is taught** in **another** *baraita* that when that verse states: "And the two kidneys … **he shall take it away,**" the singular form serves **to include** an animal that **has one kidney,** which may be sacrificed. Evidently, these *tanna'im* disagree as to whether an animal lacking a kidney is fit to be sacrificed.

סַבְרוּהָ: דִּכּוּלֵי עָלְמָא אֵין בְּרִיָּה בְּאַחַת, דְּהָא מִיחְסַר חֲסַר; לֵימָא בְּהָא קָמִיפַּלְגִי, דְּמָר סָבַר: חָסְרוֹן מִבִּפְנִים שְׁמֵיהּ חָסְרוֹן, וּמָר סָבַר: חָסְרוֹן מִבִּפְנִים לָא שְׁמֵיהּ חָסְרוֹן?

The Sages initially **assumed that everyone** agrees that there is **no entity** born **with one** kidney, and only one kidney is found **because** this offering **became lacking** a kidney only after birth. If so, **let us say** that **they disagree about this: That** one **Sage,** the *tanna* of the first *baraita*, **holds** that **a lack** of **an internal** limb **is considered a lack, and** one **Sage,** the *tanna* of the second *baraita*, **holds** that **a lack** of **an internal** limb **is not considered a lack.**

אָמַר רַב חִיָּיא בַּר יוֹסֵף: דִּכּוּלֵי עָלְמָא יֵשׁ בְּרִיָּה בְּאַחַת, וְחָסְרוֹן מִבִּפְנִים שְׁמֵיהּ חָסְרוֹן; וְלָא קַשְׁיָא, כָּאן – כְּשֶׁנִּבְרְאָה בִּשְׁתַּיִם וְחָסְרוּ, כָּאן – כְּשֶׁנִּבְרְאָה בְּאַחַת מֵעִיקָּרָא.

Rav Ḥiyya bar Yosef says: There is no dispute here, **as everyone agrees** that **there is** such **an entity** born **with one** kidney, **and** everyone also agrees that the **lack of an internal** limb **is considered a lack** that disqualifies the animal. **And** the contradiction between the two *baraitot* is **not difficult: Here,** in the first *baraita*, **where it was created with two** kidneys **and** one **is lacking,** the animal is disqualified. Whereas **there, where it was created with one** kidney **from the outset,** it is not lacking and therefore it is fit.

וְהָא דּוּמְיָא דְּשָׁלֹשׁ קָתָנֵי, מַה שָׁלֹשׁ מֵעִיקָּרָא, אַף אַחַת מֵעִיקָּרָא!

The Gemara asks: **But** the first *baraita* **teaches** the case of an animal that has one kidney as **similar** to that **of** an animal that **has three kidneys.** One can therefore infer: **Just as** these **three** kidneys were present **from the outset,** as an animal does not grow new limbs, **so too,** the animal with **one** kidney alone was like that **from the outset.**

HALAKHA

וְלֹא בַּעַל שָׁלֹשׁ כּוּלְיוֹת – Nor one that has three kidneys: Any additional limb is considered to be like a missing limb. Therefore, if a sacrificial animal has three kidneys or two spleens it is disqualified from the altar, as stated in the *baraita* (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:11, and see *Sefer Kedusha*, *Hilkhot Sheḥita* 8:25; *Shulḥan Arukh*, *Yoreh De'a* 44:1).

BACKGROUND

לֹא בַּעַל כּוּלְיָא אַחַת וְלֹא בַּעַל שָׁלֹשׁ כּוּלְיוֹת – Not one that has one kidney nor one that has three kidneys: The phenomenon of a person with one kidney is well documented; it occurs roughly once in every 1,500 births. Likewise, the lack of a kidney can also occur in animals. A person born with three kidneys is far rarer, but there have been cases of people born with four or five kidneys. One can function fully with only one kidney, whereas one cannot survive without any kidneys at all.

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אֶלָּא הָכָא בְּיֵשׁ בְּרִיָּה מֵעִיקָּרָא קָמִיפַּלְגִי, מָר סָבַר: יֵשׁ בְּרִיָּה בְּאַחַת, וּמָר סָבַר: אֵין בְּרִיָּה בְּאַחַת.

Rather, everyone agrees that a lack of an internal limb is considered a lack, and **here** the *tanna'im* **disagree with regard to** the matter of whether **there is an entity** created with one kidney **from the outset.** One **Sage,** the *tanna* of the second *baraita,* **holds** that **there is an entity** created **with one** kidney, and it may be assumed that this is such an animal, and it is not lacking a limb. **And** one **Sage,** the *tanna* of the first *baraita,* **holds** that **there is no entity** created **with one** kidney, and this animal is lacking a limb and is disqualified for sacrifice.

וְרַבִּי יוֹחָנָן אָמַר: דְּכוּלֵּי עָלְמָא אֵין בְּרִיָּה בְּאַחַת, וְחָסְרוֹן מִבִּפְנִים – שְׁמֵיהּ חֶסְרוֹן; וְלָא קַשְׁיָא, כָּאן – שֶׁחָסְרָה קוֹדֶם שְׁחִיטָה, כָּאן – שֶׁחָסְרָה לְאַחַר שְׁחִיטָה. וּלְאַחַר שְׁחִיטָה קוֹדֶם קַבָּלָה מִי שָׁרֵי?

And Rabbi Yoḥanan says: Everyone agrees that there is **no entity** born **with one** kidney, **and** that **a lack of an internal** limb **is considered a lack, and** yet it is **not difficult. Here,** in the first *baraita,* it is referring to a case **where it lacked** a kidney **before** its **slaughter.** Whereas **there,** the second *baraita* is dealing with a case **where it lacked** a kidney only **after** its **slaughter,** and therefore it is fit. The Gemara asks: **And** if the animal lacked a kidney **after** its **slaughter** but **before** the **collection** of the blood in a vessel for sprinkling, **is it permitted** to sacrifice it?

Perek **VI**
Daf **39** Amud **b**

וְהָאָמַר רַבִּי זֵירָא אָמַר רַב: הַצּוֹרֵם אׇזֶן הַפָּר וְאַחַר כָּךְ קִיבֵּל דָּמוֹ – פָּסוּל, שֶׁנֶּאֱמַר: ״וְלָקַח מִדַּם הַפָּר״ – הַפָּר שֶׁהָיָה כְּבָר! אֶלָּא: כָּאן – שֶׁחָסְרָה קוֹדֶם קַבָּלָה, כָּאן – שֶׁחָסְרָה לְאַחַר קַבָּלָה.

But doesn't Rabbi Zeira say that **Rav says:** In the case of **one who slits the ear of the bull** with the knife after slaughter, creating a blemish, **and thereafter collects its blood**[H] from the neck, the offering is **disqualified, as it is stated: "And** the anointed priest **shall take from the blood of the bull"** (Leviticus 4:5). By using the term "the bull," the verse indicates that the **bull** must be at the time of collection of the blood as **it already was** before slaughter, without a blemish. **Rather, here,** in the first *baraita,* it is referring to a case **where it lacked** a kidney **before the collection** of the blood, whereas **there,** in the second *baraita,* it is dealing with a case **where it lacked** a kidney only **after the collection** of the blood.

וּלְאַחַר קַבָּלָה קוֹדֶם זְרִיקָה, מִי שָׁרֵי? וְהָתַנְיָא: ״שֶׁה תָּמִים זָכָר בֶּן שָׁנָה יִהְיֶה לָכֶם״ – שֶׁיִּהֵא תָּמִים בֶּן שָׁנָה בִּשְׁעַת שְׁחִיטָה;

The Gemara asks: **And** if the animal lacked a kidney **after** the **collection** of the blood but **before** the **sprinkling** of the blood, **is it permitted** to be sacrificed upon the altar? **But isn't it taught** in a *baraita* that the verse states with regard to the Paschal offering: **"Your lamb shall be without blemish, a male in its year"** (Exodus 12:5), indicating **that it shall be unblemished** and **in its** first **year at the time of slaughter?**[N]

וּמִנַּיִן בְּקַבָּלָה וְהוֹלָכָה וְהַזָּיָיה? תַּלְמוּד לוֹמַר: ״יִהְיֶה״ – שֶׁיְּהוּ כָּל הֲוָיוֹתָיו תָּם וּבֶן שָׁנָה!

The *baraita* continues: **And from where** is it derived that it must also be unblemished at the time **of** the **collection** of the blood, **and** at the time of **conveying** its blood to the altar, **and** at the time of the **sprinkling** of the blood? **The verse states: "Shall be,"** emphasizing **that all** actions that **are** performed upon **it shall be** performed only when it is **unblemished and in its** first **year.** This teaches that the offering must be unblemished even at the time of the sprinkling of its blood.

תַּרְגְּמָא אַבֶּן שָׁנָה. הָכִי נַמִּי מִסְתַּבְּרָא, דְּתַנְיָא, רַבִּי יְהוֹשֻׁעַ אוֹמֵר: כָּל הַזְּבָחִים שֶׁבַּתּוֹרָה שֶׁנִּשְׁתַּיֵּיר מֵהֶן כַּזַּיִת בָּשָׂר אוֹ כַּזַּיִת חֵלֶב – זוֹרֵק אֶת הַדָּם. שְׁמַע מִינָּהּ.

The Gemara answers: **Interpret** this *baraita* as teaching that only the requirement that the animal must be **in its** first **year** is necessary at the time of sprinkling. Nevertheless, it need not be unblemished at this stage. The Gemara adds: **So, too, it is reasonable** that this is the correct interpretation, **as it is taught** in a *baraita* that **Rabbi Yehoshua says:** With regard to **all offerings in the Torah** that were slaughtered and their blood was collected, **from which there remains** either **an olive-bulk**[H] **of flesh or an olive-bulk of fat,** the priest **sprinkles the blood** of that offering. **Learn from** this *baraita* that even if most of the offering is lacking, it is not disqualified after the collection of the blood.

HALAKHA

One who slits the ear of the bull and thereafter collects its blood – הַצּוֹרֵם אׇזֶן הַפָּר וְאַחַר כָּךְ קִיבֵּל דָּמוֹ: If a limb was removed from an offering after slaughter and before the collection of the blood, the offering is disqualified. Likewise, if one slit the offering's ear before collecting the blood, he may not collect the blood, and if he collected and sprinkled it, it is disqualified, in accordance with the statement of Rabbi Zeira (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 1:29).

With regard to all offerings in the Torah from which there remains an olive-bulk – כָּל הַזְּבָחִים שֶׁבַּתּוֹרָה שֶׁנִּשְׁתַּיֵּיר מֵהֶן כַּזַּיִת: In a case where the blood of an offering was collected in a vessel, and afterward part of the offering was lost or burnt before the blood had been sprinkled, if an olive-bulk of the flesh or of the portions to be burnt on the altar remains, the blood may be sprinkled. If not, the blood may not be sprinkled, in accordance with the opinion of Rabbi Yehoshua (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 1:30).

NOTES

That it shall be unblemished and in its first year at the time of slaughter – שֶׁיִּהֵא תָּמִים בֶּן שָׁנָה בִּשְׁעַת שְׁחִיטָה: This is derived from this verse's juxtaposition to the previous verse, which states: "You shall make your count [*takhosu*] for the lamb," and the Sages expounded the word *takhosu* as referring to slaughter (Rashi on *Zevaḥim* 25b).

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HALAKHA

Hours disqualify in the case of sacrificial animals – שָׁעוֹת פּוֹסְלוֹת בְּקָדָשִׁים: One counts the age of sacrificial offerings to the hour, and if one hour was added or removed from the appropriate age of the animal it is disqualified. For example, if an offering must be in its first year, and it was slaughtered exactly a year after its birth, so that its blood was sprinkled an hour after the time of its birth, the offering is disqualified, in accordance with the statement of Rava (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 1:13).

And that whose stones are bruised or crushed or torn or cut – וְעָעוּךְ וְכָתוּת וְנָתוּק וְכָרוּת: These are the blemishes in the genitals: If the penis is bruised, crushed, torn, or broken, or if either or both testicles are similarly damaged, this is considered a blemish. An animal injured in this manner may not be sacrificed as an offering. This *halakha* is in accordance with Rabbi Yehuda (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:8 and *Kesef Mishne* there; *Shulḥan Arukh*, *Even HaEzer* 5:11).

BACKGROUND

There are times that the testicles also shrink…there are times that the testicles also hang – זְמַן זִמְנִין דְּמִיכַּוְוצָן... זְמַן זִמְנִין דְּתַלְיָין: In most mammals the testicles are on the outside (see 8a), as their functioning requires a lower temperature than that of the body. Their desired temperature is preserved by the movement of the pouch closer to the body by means of the cremaster muscle when it is cold outside and its lowering away from the body by the relaxing of this muscle in the heat. Consequently, even when they are unblemished the testicles sometimes shrink inward, while on other occasions they hang further from the body. It is difficult for one who is not an expert to distinguish between these normal conditions and those when the testicles have degenerated due to bruising or disease.

וּמִי אִיכָּא מִידֵּי דִּבְשַׁעַת שְׁחִיטָה הָוֵי בֵּן שָׁנָה, וּבִשְׁעַת קַבָּלָה וְהוֹלָכָה הָוֵי בֵּן שְׁתֵּי שָׁנִים? אֱמַר רָבָא, זֹאת אוֹמֶרֶת: שָׁעוֹת פּוֹסְלוֹת בְּקָדָשִׁים.

The Gemara asks with regard to the interpretation of the *baraita*: **But is there anything where at the time of** its **slaughter** the animal **is in its** first **year but at the time of** the **collection** of the blood **and conveying** it to the altar it **is in its second year? Rava says: That is to say** that **hours disqualify** in the case **of sacrificial** animals,[H] i.e., one measures the age of the offering from the exact time of its birth. Therefore, if the animal reaches its second year between the time when it is slaughtered and the collection of its blood it is disqualified.

לֵימָא כְּתַנָּאֵי: ״וּמָעוּךְ וְכָתוּת וְנָתוּק וְכָרוּת״ – כּוּלָּן בַּבֵּיצִים, דִּבְרֵי רַבִּי יְהוּדָה.

§ The Gemara returns to the previous discussion of whether the lack of an internal organ disqualifies an offering from being sacrificed. **Let us say** that this matter is **the subject of** a dispute between ***tanna'im,*** as it is taught in a *baraita* discussing the verse that provides a list of animals disqualified from the altar: "**And that whose stones are bruised, or crushed, or torn, or cut**[HN] you shall not sacrifice to the Lord" (Leviticus 22:24). **All** of these blemishes **are** found **in the** animal's **testicles;** this is **the statement of Rabbi Yehuda.**

בַּבֵּיצִים וְלֹא בַּגִּיד? אֵימָא: אַף בַּבֵּיצִים, דִּבְרֵי רַבִּי יְהוּדָה. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: כּוּלָּן בַּגִּיד. רַבִּי יוֹסֵי אוֹמֵר: מָעוּךְ וְכָתוּת – אַף בַּבֵּיצִים, נָתוּק וְכָרוּת – בַּגִּיד אִין, בַּבֵּיצִים לָא.

The Gemara asks: Does Rabbi Yehuda mean that these blemishes are only **in the testicles and not in the penis?** There too these should be considered blemishes, as the penis is more exposed and visible than the testicles. Rather, **say** that all of them **also** apply **to the testicles;** this is **the statement of Rabbi Yehuda. Rabbi Eliezer ben Ya'akov says: All of them are** considered blemishes only when found **on the penis. Rabbi Yosei says:** The blemishes of "**bruised, or crushed**" apply **also to the testicles, while** with regard to the blemishes of "**torn or cut,**" **on the penis, yes,** these are considered a blemish, but **on the testicles** they are **not** considered a blemish.

מַאי לָאו בְּהָא קָמִיפַּלְגִי, דְּמָר סָבַר: חֶסְרוֹן מִבִּפְנִים – שְׁמֵיהּ חֶסְרוֹן, וּמָר סָבַר: לָא שְׁמֵיהּ חֶסְרוֹן?

The Gemara explains the relevance of the dispute to the matter at hand: **What, is it not** that these *tanna'im* **disagree about this: That** one **Sage,** Rabbi Yehuda, **holds** that **the lack of** an **internal** limb **is called a lack.** Therefore, in cases where the testicles are damaged they are considered lacking, disqualifying the animal, despite the fact that the blemish is not exposed. **And** one **Sage,** Rabbi Eliezer ben Ya'akov, **holds** that the lack of an internal limb **is not called a lack.**

וְתִסְבְּרָא? רַבִּי יוֹסֵי מַאי קָסָבַר? אִי קָסָבַר חֶסְרוֹן מִבִּפְנִים שְׁמֵיהּ חֶסְרוֹן – אֲפִילּוּ נָתוּק וְכָרוּת נָמֵי, וְאִי קָסָבַר לָא שְׁמֵיהּ חֶסְרוֹן – אֲפִילּוּ מָעוּךְ וְכָתוּת נָמֵי לָא!

The Gemara rejects this suggestion: **And can you understand** the *baraita* in this manner? If so, **what does Rabbi Yosei hold? If he holds** that **the lack** of **an internal** limb **is called a lack,** then **even** "**torn or cut**" should be considered a lack, despite the fact that these blemishes are not visible. **And if he holds** that a lack of an internal limb **is not called a lack,** then **even** "**bruised, or crushed,**" should **not** be considered a lack, as they are not exposed.

אֶלָּא, הָכָא בְּמוּמִים שֶׁבְּגָלוּי קָמִיפַּלְגִי, רַבִּי יְהוּדָה סָבַר: מָעוּךְ וְכָתוּת הָוֵי מוּמָא – דְּמִיכַּוְוצָן, נָתוּק וְכָרוּת הָוֵי מוּמָא – דְּהָא תַּלְיָין. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב סָבַר: מָעוּךְ וְכָתוּת לָא הָוֵי מוּמָא – דְּמֵעִיקָּרָא נַמִי זְמַן זִמְנִין דְּמִיכַּוְוצָן, נָתוּק וְכָרוּת לָא הָוֵי מוּמָא – דְּמֵעִיקָּרָא נַמִי זְמַן זִמְנִין דְּתַלְיָין.

Rather, here they disagree with regard to exposed blemishes. Rabbi Yehuda holds that "**bruised or crushed**" testicles **are** considered **blemished, as** the testicles noticeably **shrink** due to the crushing. Likewise, testicles that are "**torn or cut**" **are** considered **blemished, as** the testicles appear to be **hanging,** i.e., dangling, to such an extent that they do not appear to be attached in the usual manner. **Rabbi Eliezer ben Ya'akov holds** that testicles that are "**bruised or crushed**" **are not** considered noticeable **blemishes, as initially,** before they become damaged, **there are times that** the testicles **also shrink.** Furthermore, testicles that are "**torn or cut**" **are not** considered **blemished** either, **as initially,** prior to being torn or cut, **there are times that** the testicles **also hang.**[B]

NOTES

Bruised or crushed or torn or cut – מָעוּךְ וְכָתוּת וְנָתוּק וְכָרוּת: Bruised means that the penis or testicles were squashed out of shape by pressing or by means of a blow. Crushed means that they were pounded into small pieces (see Rashi to Leviticus 22:24). With regard to the difference between torn and cut, Rashi explains that both actions involve the severance of the spermatic cords, and the difference lies in the manner of their performance: An implement is used for cutting, while tearing is performed by hand. Alternatively, cutting refers to severing the scrotum but leaving the testicles hanging, whereas tearing refers to removing the testicles themselves (see *Tosafot* on *Menaḥot* 56b).

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וְרַבִּי יוֹסֵי סָבַר: מָעוּךְ וְכָתוּת הָוֵי מוּמָא – דְּהָא לֵיתְנְהוּ, נָתוּק וְכָרוּת לָא הָוֵי מוּמָא – דְּהָא אִיתְנְהוּ.

And Rabbi Yosei holds that **"bruised or crushed"** testicles **are** considered **blemished, as they are no** longer **present** in their normal state, but are entirely broken. But he maintains that **"torn or cut"** testicles **are not** considered **blemished, as they are** still **present** in the pouch, despite the fact that they no longer function.

מתני׳ נִפְגַּם הַזּוֹבֶן, הָעָרְיָה שֶׁל נְקֵבָה בְּמוּקְדָּשִׁין. נִפְגַּם הַזָּנָב מִן הָעֶצֶם אֲבָל לֹא מִן הַפֶּרֶק, אוֹ שֶׁרֹאשׁ זָנָב מְפֻצָּל, נִקְלְפָה הָעוֹר וְהַבָּשָׂר וְהָעֶצֶם נִשְׁאַר, אוֹ שֶׁיֵּשׁ בָּשָׂר מֵחוּלְיָא לְחוּלְיָא מְלֹא אֶצְבַּע.

MISHNA The mishna details additional blemishes that enable the slaughter of firstborn animals: If **the pouch** [*hazoven*][L] in which the genitals of the firstborn are concealed, or if **the genitalia of a female sacrificial** animal, **were damaged**[H] and lacking; if **the tail was damaged from the tailbone, but not** if it was damaged **from the joint,** i.e., one of the joints between the vertebrae, because it heals; **or** in a case **where the end of the tail is split,**[HN] i.e., **the skin and the flesh were removed and the bone remained** exposed; **or** in a case **where there is a full fingerbreadth of flesh between one joint and another joint;** these are all blemishes.

גמ׳ אָמַר רַבִּי אֶלְעָזָר: נִפְגַּם – וְלֹא נִיטַּל, כֵּיס – וְלֹא זַכְרוּת. תַּנְיָא נַמִּי הָכִי: נִפְגַּם – וְלֹא נִיטַּל, כֵּיס – וְלֹא זַכְרוּת. אָמַר רַבִּי יוֹסֵי בֶּן הַמְשׁוּלָּם: מַעֲשֶׂה בְּעִינְבַּל אֶחָד שֶׁנִּטְּלוֹ זְאֵב, וְהֶחֱזִיר לְאֵיתָנוֹ.

GEMARA With regard to the case where the pouch in which the genitals of the firstborn are concealed was damaged, **Rabbi Elazar says:** This applies only if the pouch **was damaged, but not** in a case where it **was removed.** Furthermore, it is a blemish only if **the pouch** was damaged, **but not** if **the male** sex organ was damaged.[N] The Gemara notes that **this** opinion **is also taught** in a *baraita*: It is a blemish only if the pouch **was damaged, but not** if it **was removed,** and only if **the pouch** was damaged, **but not the male** sex organ. **Rabbi Yosei ben HaMeshullam says: An incident** occurred **involving one** animal **in Inbal,**[N] **where a wolf removed** its pouch **and it** later **returned to its strength,** i.e., it grew again.

״נִפְגַּם הַזָּנָב מִן הָעֶצֶם״ וכו׳. תָּנָא: אֶצְבַּע שֶׁאָמְרוּ – אֶחָד מֵאַרְבָּעָה בְּטֶפַח שֶׁל כָּל הָאָדָם. לְמַאי הִלְכְתָא? אָמַר רַבָּה: לְעִנְיַן תְּכֵלֶת. דְּתַנְיָא: כַּמָּה חוּטִין הוּא נוֹתֵן? בֵּית שַׁמַּאי אוֹמְרִים: אַרְבָּעָה, וּבֵית הִלֵּל אוֹמְרִים: שִׁלְשָׁה.

§ The mishna stated: If **the tail was damaged from the tailbone…** or in a case where there is a full fingerbreadth of flesh between one joint and another joint. A *tanna* **taught:** The **fingerbreadth** of **which** the Sages **spoke** is **one-fourth of a handbreadth**[N] **of any** average **person.** The Gemara asks: **With regard to what *halakha*** is this stated? **Rabba says:** It is stated **with regard to *tekhelet,*** i.e., ritual fringes. **As it is taught** in a *baraita*: **How many strings does one place**[H] on a garment? **Beit Shammai say: Four** strings[N] are inserted into the hole in the garment so that there are eight strings hanging down altogether, **and Beit Hillel say: Three** strings are inserted into the hole so that six are hanging down.

LANGUAGE

Pouch [*zoven*] – זוֹבֶן: The *Arukh* maintains that this refers to the penis, and it is called by this name due to the word for a gonorrhea-like discharge [*ziva*] that exudes from the penis.

HALAKHA

If the pouch…were damaged – נִפְגַּם הַזּוֹבֶן: If the skin covering the penis of a sacrificial animal was damaged, and likewise if the genitalia of a female sacrificial animal were damaged or if the tail was damaged from the tailbone but not from the joint, these are blemishes. The *Tur* (*Yoreh De'a* 309, and see *Beit Yosef* there) does not include these in the list of blemishes for which one may slaughter the animal nowadays, when there are no experts on these matters, as these are not clear-cut blemishes (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:4).

Or in a case where the end of the tail is split – אוֹ שֶׁרֹאשׁ זָנָב מְפֻצָּל: If the end of the tail was split into two, with one bone in each section, or if there was a full fingerbreadth of flesh between one joint and another joint in the tail, that is a blemish. The *Tur* (*Yoreh De'a* 309) mentions these in his list of unequivocal blemishes for which one may slaughter the animal even nowadays, when there are no experts for these matters (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:4).

How many strings does one place – כַּמָּה חוּטִין הוּא נוֹתֵן: One must attach four strings to each corner of the garment. This is in accordance with the opinion of Beit Shammai, which is accepted by Rav Pappa. Once the strings are inserted into the hole in the corner and allowed to hang down on each side, there are eight strings hanging down. If one attaches additional strings, the ritual fringes are unfit. Some hold that it is permitted to add extra strings (see *Mishna Berura*).

Rashi and *Tosafot* hold that two of the strings are white and two are sky blue [*tekhelet*]. The Ra'avad holds that three strings are white and one is sky blue. The Rambam holds that only one-half of a string is sky blue, so that when it is inserted into the garment, one of the eight strings hanging down is sky blue. When sky-blue dye is not available, one attaches four white strings (Rambam *Sefer Ahava*, *Hilkhot Tzitzit* 1:6; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 11:12).

NOTES

The end of the tail is split – רֹאשׁ זָנָב מְפֻצָּל: The version of the standard text of the *mishnayot* reads: The end of the tail splits a bone. Two interpretations are suggested. One is that of Rashi: The skin was peeled off, revealing the bone at the end of the tail. The other explanation is that the bone at the end of the tail was split into two, so that there is a bone in each of the split ends (Rambam; *Tosafot*).

Only if the pouch was damaged but not if the male sex organ was damaged – כֵּיס וְלֹא זַכְרוּת: Rashi explains that if the pouch was removed the animal will recover, and if the penis is damaged, it will heal. In Rambam's Commentary on the Mishnah he explains that the penis cannot be seen easily in animals, so the blemish is not readily apparent and is not considered significant.

An incident occurred involving one animal in Inbal – מַעֲשֶׂה בְּעִינְבַּל אֶחָד: Manuscript versions of the Talmud and other sources indicate that this is referring to a place called Ein Bul or a similar name.

The fingerbreadth of which the Sages spoke is one-fourth of a handbreadth – אֶצְבַּע שֶׁאָמְרוּ אֶחָד מֵאַרְבָּעָה בְּטֶפַח: This is the size of the thumb, in accordance with the statement of Rav Pappa that the handbreadth of the Torah is four fingerbreadths if measured by the thumb (*Menaḥot* 41b). Likewise, when the Sages refer to a fingerbreadth without further specification, they are speaking of the thumb (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 17:36). It is generally agreed that this means the width of the thumb rather than its length or thickness. It is uncertain whether the reference is to the wide part of the thumb, i.e., along the middle joint, or to the end of the thumb, which is narrower (*Tosafot* on *Menaḥot* 41b).

Beit Shammai say four strings – בֵּית שַׁמַּאי אוֹמְרִים אַרְבָּעָה: Of these four strings, two are sky blue and two are white (*Tosafot*). The Ra'avad holds that three are white and one is sky blue. The Rambam holds that half of one string is dyed sky blue. Therefore, once the strings are inserted into the garment and allowed to hang down on both sides of the hole, there are seven white strings and one sky-blue string. The sky-blue string is then used to wind around the other seven strings.

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וְכַמָּה תְּהֵא מְשׁוּלֶּשֶׁת? בֵּית שַׁמַּאי אוֹמְרִים: אַרְבָּעָה, וּבֵית הִלֵּל אוֹמְרִים: שְׁלֹשָׁה. וּשְׁלִישׁ שֶׁבֵּית הִלֵּל אוֹמְרִים – אֶחָד מֵאַרְבַּע בְּטֶפַח שֶׁל כָּל אָדָם.

The *baraita* continues: **And how much should be hanging**[NH] beyond the knots and windings? **Beit Shammai say: Four** fingerbreadths, **and Beit Hillel say: Three** fingerbreadths. **And** the **three** fingerbreadths **that Beit Hillel say** should be hanging are each **one-fourth of a handbreadth of any** average **person.**

רַב הוּנָא בְּרֵיהּ דְּרַב יְהוֹשֻׁעַ אָמַר: לִשְׁתֵּי אַמּוֹת. דְּתָנַן: שְׁתֵּי אַמּוֹת הָיוּ

Rav Huna, son of Rav Yehoshua, says that this *baraita* discussing the fingerbreadth is referring **to the two cubits** mentioned in a different context, **as we learned** in a mishna (*Kelim* 17:9): **There were two** rods for measuring **cubits**

NOTES

And how much should be hanging [*meshulleshet*] – וְכַמָּה תְּהֵא מְשׁוּלֶּשֶׁת: Rashi in tractate *Menaḥot* understands that the word *meshulleshet* is the same as *meshulshelet*, meaning hanging. It refers to the length of the loose strings that hang down from the wrapped portion of the ritual fringes. Others explain that, on the contrary, it refers to the wrapped portion, which resembles a chain [*shalshelet*] (second explanation of Rashi; Rabbeinu Tam). According to this explanation, there must then be a portion of loose strings that is twice as long as the wrapped portion. This is based on the fact that the Gemara (*Menaḥot* 39a) states that the portion of the strings that contains the knots and windings should be one-third of the total length of the strings (see *Shita Mekubbetzet* on *Menaḥot* 39a, citing Rabbeinu Gershom Meor HaGola). Other commentaries understand the Gemara as referring to the total length of the ritual fringes (Rabbeinu Gershom Meor HaGola and Rid, citing Rav Amram Gaon). It would appear that the Rambam understood *meshulleshet* to mean divided equally, referring to the lengths of the two sides of each string after the string is inserted into the hole in the garment.

HALAKHA

And how much should be hanging – וְכַמָּה תְּהֵא מְשׁוּלֶּשֶׁת: The minimum length for ritual fringes is four fingerbreadths, which equals one handbreadth (Rambam; Rosh). Some hold that the knots and windings must be four fingerbreadths and the strings must hang down an additional eight fingerbreadths beyond that (Rabbeinu Tam). This is the accepted practice.

These measurements refer to the length of the strings after the first knot and do not include the portion of the strings that rests on the garment (*Beit Yosef*). The string that one winds around the others must be longer than the others.

According to the Ḥazon Ish, one fingerbreadth is 2.4 cm, while Rabbi Ḥayyim Na'e holds that it is 2 cm (Rambam *Sefer Ahava*, *Hilkhot Tzitzit* 1:6; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 11:4).

Perek **VI**
Daf **40** Amud **a**

בְּשׁוּשַׁן הַבִּירָה, אַחַת עַל קֶרֶן מִזְרָחִית צְפוֹנִית וְאַחַת עַל קֶרֶן מִזְרָחִית דְּרוֹמִית. שֶׁעַל קֶרֶן מִזְרָחִית צְפוֹנִית הָיְתָה יְתֵירָה עַל שֶׁל מֹשֶׁה חֲצִי אֶצְבַּע, וְשֶׁעַל קֶרֶן מִזְרָחִית דְּרוֹמִית הָיְתָה יְתֵירָה עָלֶיהָ חֲצִי אֶצְבַּע, נִמְצֵאת יְתֵירָה עַל שֶׁל מֹשֶׁה אֶצְבַּע.

in the chamber of **Shushan the capital,**[N] which was located above the eastern gate of the Temple Mount, **one in the northeast corner and one in the southeast corner.** The one **that was in the northeast corner was longer than** the cubit used **by Moses** in the building of the Tabernacle, which was six handbreadths, by **half a fingerbreadth,** and the one **that was in the southeast corner was longer than** the other one by another **half a fingerbreadth.** One therefore **finds it longer than Moses'** cubit by a full **fingerbreadth.**

NOTES

In the chamber of Shushan the capital – בְּשׁוּשַׁן הַבִּירָה: The mishna (*Middot* 1:3) states that there was a depiction of Shushan, the capital city of the Persian Empire, above the eastern gate of the Temple Mount, which was also known as the Shushan Gate. According to some of the commentaries, there was a chamber above the eastern gate with this depiction on its wall, and the two measuring rods were placed in this chamber (see Rashi). Other commentaries explain that these measures were built into the chamber itself: One part of the room was built according to the cubit of Moses, while other sides of the room were built using the other cubit measurement (*Arukh*). Rabbeinu Ḥananel explains that there was no chamber there at all, and the two measuring rods were placed on either side of the depiction of Shushan the capital, which was on the gate.



Shushan Gate as depicted in the model of the Second Temple at the Israel Museum

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וְלָמָּה הָיוּ אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה? כְּשֶׁהָיוּ אוּמָּנִין נוֹטְלִין בְּקְטַנָּה וּמַחֲזִירִין בִּגְדוֹלָה, שֶׁלֹּא יָבוֹאוּ לִידֵי מְעִילָה.

The mishna continues: **And why did** the Sages **say** that there should be two measures of a cubit, **one large and one small?** It was **so that the artisans** who were working in the Temple **would take** payment according the amount of work they did, as measured **by the small** cubit, **and return** it to the Temple through their work, as measured **by the large** cubit,[H] **so they would not come to misuse consecrated property.**[N] If they would accept any payment that they did not deserve, they would be misusing consecrated property. It was with regard to the fingerbreadth mentioned in this mishna that the *baraita* cited above teaches that it is one-fourth of a handbreadth of any average person.

תַּרְתֵּי לָמָּה לִי? חֲדָא דְּכַסְפָּא וְזַהֲבָא, וַחֲדָא דִּבְנַיְינָא.

The Gemara asks: **Why do I** need **two** large cubits? The Gemara answers: **One,** the shorter of the two, was used **to** measure **silver and gold.** Since silver and gold were valuable, the difference between the two measurements was set at only half a fingerbreadth, so that the artisans would not suffer too great a loss. **And** the other **one,** which was longer than Moses' cubit by a full fingerbreadth, was used **in** the **construction** of wood and stone structures.

רַב נַחְמָן בַּר יִצְחָק, וְאִי תֵּימָא רַב הוּנָא בַּר נָתָן: לְאוֹתָהּ שֶׁשָּׁנִינוּ ״שֶׁיֵּשׁ בָּשָׂר בֵּין חוּלְיָא לְחוּלְיָא מְלֹא אֶצְבַּע״.

Rav Naḥman bar Yitzḥak, and some say Rav Huna bar Natan, said: This *baraita*, which states that a fingerbreadth is one-fourth of a handbreadth of any average person, is referring **to that which we learned** in the mishna here with regard to the blemishes of a firstborn animal: In a case **where there is a full fingerbreadth of flesh between one joint and another joint.** That measure of a full fingerbreadth is one-fourth of a handbreadth.

מתני׳ אֵין לוֹ בֵּיצִים אוֹ אֵין לוֹ אֶלָּא בֵּיצָה אַחַת. רַבִּי יִשְׁמָעֵאל אוֹמֵר: אִם יֵשׁ לוֹ שְׁנֵי כִיסִין – יֵשׁ לוֹ שְׁתֵּי בֵּיצִים, אֵין לוֹ שְׁנֵי כִיסִין – אֵין לוֹ אֶלָּא בֵּיצָה אַחַת. רַבִּי עֲקִיבָא אוֹמֵר: מוֹשִׁיבוֹ עַל עַכּוּזוֹ וּמְמַעֲכוֹ, אִם יֵשׁ בֵּיצָה – סוֹפוֹ לָצֵאת. מַעֲשֶׂה שֶׁמְּמָעֲכוֹ וְלֹא יָצָא, נִשְׁחֲטָה, וְנִמְצְאוּ דְּבוּקָה בַּכְּסָלִים, וְהִתִּיר רַבִּי עֲקִיבָא וְאָסַר רַבִּי יוֹחָנָן בֶּן נוּרִי.

MISHNA The firstborn animal may be slaughtered if **it has no testicles**[B] **or** if **it has only one testicle.**[H] **Rabbi Yishmael says: If** the animal **has two** scrotal **sacs,** it can be assumed that **it has two testicles;** if the animal **does not have two** scrotal **sacs,** it can be assumed that **it has only one testicle. Rabbi Akiva says:** The matter can be ascertained: **One seats** the animal **on its rump and mashes** the sac; **if there is a testicle, ultimately** it is going **to emerge.** There was **an incident where one mashed** the sac **and** the testicle **did not emerge.** Then, the animal **was slaughtered and** the testicle **was discovered attached to the loins. And Rabbi Akiva permitted** the consumption of its flesh, as the testicle had not previously emerged, **and Rabbi Yoḥanan ben Nuri prohibited** its consumption.

גמ׳ הָשְׁתָּא אֵין לוֹ אֶלָּא בֵּיצָה אַחַת אָמְרַתְּ הָווּ מוּמָא, אֵין לוֹ כְּלָל מִיבָּעְיָא? חֲסוּרֵי מִיחַסְּרָא וְהָכִי קָתָנֵי: אֵין לוֹ שְׁתֵּי בֵּיצִים בְּשִׁתֵּי כִיסִין אֶלָּא בְּכִיס אֶחָד, אִי נַמִי שְׁתֵּי כִיסִין וּבֵיצָה אַחַת – הֲרֵי זֶה מוּם.

GEMARA The mishna teaches that a firstborn may be slaughtered if it has no testicles or if it has only one testicle. The Gemara asks: **Now** that with regard to a case where **it has only one testicle you said** that **it is a blemish, is** it **necessary** to state the same in a case where **it has no** testicles **at all?** The Gemara answers that the mishna **is incomplete**[N] **and this** is what **it is teaching:** If **it does not have two testicles in two** scrotal **sacs, but in one sac,** or **alternatively,** if it has **two sacs and one testicle, it is a blemish.**

NOTES

So they would not come to misuse consecrated property – שֶׁלֹּא יָבוֹאוּ לִידֵי מְעִילָה: Many transactions involving the Temple were undertaken in ways similar to the one described in this context in order to prevent possible misuse of consecrated property. The prohibition against misusing consecrated property is not limited to purposeful misuse of such property. It primarily applies to one who unwittingly uses or derives personal benefit from consecrated property. Therefore, artisans working in the Temple or merchants doing business with the Temple would forgo some of their payment in order to ensure that no mistake had been made and they had not overcharged the Temple treasury.

The commentaries explain that this situation would not have led to an actual violation of the prohibition of misuse of consecrated property, as even if a consecrated item worth one hundred dinars is redeemed with an item worth only one *peruta* it is considered redeemed. Therefore, if the artisans returned materials measured by the small cubit they would not have violated the prohibition. Nevertheless, the Sages instituted that they should not return the materials in that manner, as the artisans wished to avoid any appearance of deriving benefit from consecrated property (*Tosafot*).

The mishna is incomplete – חֲסוּרֵי מִיחַסְּרָא: The early commentaries disagree with regard to the opinion of the first *tanna*, who simply indicates that the lack of testicles is a blemish. Some maintain that according to the first *tanna* there is no need to perform the examination of mashing, as required by Rabbi Akiva. Rather, the animal is permitted like any other blemished animal, even if the testicle would emerge if one were to mash the sac (see Ramban and Rosh). This is because any blemish that does not heal by itself but requires an action for it to heal is considered a permanent blemish (*Reshit Bikkurim*). Others infer from the Rambam that although the first *tanna* rules that it is not necessary to perform the examination of mashing in order to slaughter the animal, if it was slaughtered and the other testicle was found, it is prohibited to eat its meat, as it is established that this was actually an unblemished firstborn (see Mahari Kurkus, Maharit Algazi, and *Or Same'aḥ*).

BACKGROUND

If it has no testicles – אֵין לוֹ בֵּיצִים: The testicle sac and the testicles develop separately from one another. The testicles are formed from the mesonephros during the formation of the kidney before descending midway through the life of the fetus to the sac via the inguinal canal. Sometimes for various reasons the testicles can become stuck en route to the sac, while on other occasions they remain in the inguinal canal itself, where they can be exposed only through the method described here, by seating the animal on its rump and mashing the sac. On yet other occasions the testicles do not descend at all but remain in the stomach, and they can be seen only if an operation is performed after the animal's slaughter.

HALAKHA

The artisans would take payment by the small cubit and return it measured by the large cubit – הָיוּ אוּמָּנִין נוֹטְלִין בְּקְטַנָּה וּמַחֲזִירִין בִּגְדוֹלָה: The arrangement with artisans to build in the Temple and the courtyards utilizes a measure of a cubit of twenty fingerbreadths, whereas their actual work is measured by the larger cubit of twenty-four fingerbreadths, so that they should not come to violate the prohibition of misuse of consecrated property in the event that the measurement is inexact. The Rambam interprets the mishna in a manner different from the Gemara here; see the *Mishna Aḥarona* to *Kelim* 17:9 (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 8:5, and see Mahari Kurkus there).

If it has only one testicle – אֵין לוֹ אֶלָּא בֵּיצָה אַחַת: If an animal has only one testicle, even if it has two scrotal sacs, or two testicles in one scrotal sac, it is considered a blemish. The Rambam adds that if the animal had one testicle and two scrotal sacs, and the animal was seated on its rump, and the sac was mashed in order to allow the second one to emerge, but it did not emerge, and an expert permitted the animal to be slaughtered, and it was slaughtered, and then the second testicle was discovered attached to the loins, the animal is permitted, as the sac was already mashed. But if it was not mashed, even if the animal was slaughtered based on the ruling of an expert, the animal must be buried. This ruling is in accordance with the opinion of Rabbi Akiva, either because he explains the opinion of the first *tanna* or because his is the second opinion cited, after that of the first *tanna* and before that of Rabbi Yoḥanan ben Nuri. The *Tur* rules that the sac does not require an examination. If the animal was slaughtered and then a testicle was found attached to the loins, it is considered a blemish, as it was not found in the proper location. This ruling is in accordance with the first *tanna*, who disagrees with Rabbi Akiva (Rambam *Sefer Avoda*; *Hilkhot Biat HaMikdash* 7:8 and *Sefer Korbanot*, *Hilkhot Bekhorot* 3:5; *Tur*, *Yoreh De'a* 309).

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רַבִּי יִשְׁמָעֵאל אוֹמֵר: יֵשׁ לוֹ שְׁתֵּי כִיסִים – בְּיָדוּעַ שֶׁיֵּשׁ לוֹ שְׁתֵּי בֵּיצִים, אֵין לוֹ אֶלָּא כִּיס אֶחָד – כְּמִי שֶׁאֵין לוֹ אֶלָּא בֵּיצָה אַחַת דָּמֵי. וַאֲתָא רַבִּי עֲקִיבָא לְמֵימַר: בְּיָדוּעַ לָא אָמְרִינַן, אֶלָּא מוֹשִׁיבוֹ עַל עַפְוָתוֹ וּמְמַעֲכָךְ, אִם יֵשׁ בֵּיצָה סוֹפוֹ לָצֵאת.

Rabbi Yishmael says: If the animal has two scrotal sacs, it is known that it has two testicles, and therefore it is not blemished and may not be slaughtered; if the animal has only one scrotal sac it is considered like one that has only one testicle, even if it actually has two testicles. And Rabbi Akiva comes to say: If it has two sacs, we do not say the claim of: It is known. Rather, one seats the animal on its rump and mashes the sac; if there is a testicle, ultimately it is going to emerge. If the testicle does not emerge, clearly it has only one testicle and is blemished.

"וּמַעֲשֶׂה שֶׁמִּיעֵךְ וְלֹא יָצָא" וכו'. תַּנְיָא, אָמַר רַבִּי יוֹסֵי: מַעֲשֶׂה בְּפִירָן שֶׁל בֵּית מְנַחֵם שֶׁמִּיעֵךְ וְלֹא יָצָאת, וְנִשְׁחֲטָה וְנִמְצֵאת דְּבוּקָה בַּכְּסָלִים, וְהִתִּיר רַבִּי עֲקִיבָא, וְאָסַר רַבִּי יוֹחָנָן בֶּן נוּרִי.

§ The mishna teaches: And there was an incident where one mashed the sac and the testicle did not emerge. Then the animal was slaughtered and the testicle was discovered attached to the loins. And Rabbi Akiva permitted the consumption of its flesh, and Rabbi Yoḥanan ben Nuri prohibited its consumption. The Gemara elaborates on this incident: It is taught in a *baraita* that Rabbi Yosei said: There was an incident in Piran of Beit Menaḥem[N] where a firstborn animal apparently had only one testicle, and someone mashed its sac and the other testicle did not emerge. And the animal was slaughtered and the testicle was discovered attached to the loins. And Rabbi Akiva permitted its consumption, and Rabbi Yoḥanan ben Nuri prohibited its consumption.

אָמַר לוֹ רַבִּי עֲקִיבָא לְרַבִּי יוֹחָנָן בֶּן נוּרִי: עַד מָתַי אַתָּה מְכַלֶּה מָמוֹנָן שֶׁל יִשְׂרָאֵל! אָמַר לוֹ רַבִּי יוֹחָנָן בֶּן נוּרִי לְרַבִּי עֲקִיבָא: עַד מָתַי אַתָּה מַאֲכִיל יִשְׂרָאֵל נְבֵילוֹת! לָאו מִישְׁחַט שָׁחֲטֵיהּ?

The *baraita* continues: Rabbi Akiva said to Rabbi Yoḥanan ben Nuri: Until when will you consume the property of the Jewish people by prohibiting animals in such cases? Rabbi Yoḥanan ben Nuri said to Rabbi Akiva: Until when will you feed the Jewish people unslaughtered animal carcasses? The Gemara asks: How could Rabbi Yoḥanan ben Nuri use the term animal carcasses here? After all, aren't they properly slaughtered?

אֶלָּא: טְרֵיפוֹת. לָא אִיסּוּר טְרֵיפוֹת הוּא! אֶלָּא: עַד מָתַי אַתָּה מַאֲכִיל יִשְׂרָאֵל קָדָשִׁים בַּחוּץ!

The Gemara responds: Rather, Yoḥanan ben Nuri actually referred to animals with a wound that will cause them to die within twelve months [*tereifot*]. The Gemara challenges: But it is not a prohibition of *tereifot*. Rather, he said: Until when will you feed the Jewish people sacrificial animals outside the Temple courtyard? According to Rabbi Yoḥanan ben Nuri this is not a blemish, and therefore the animal is an unblemished offering, which may not be eaten outside the Temple.

מתני' בַּעַל חָמֵשׁ רַגְלַיִם, אוֹ שֶׁאֵין לוֹ אֶלָּא שָׁלֹשׁ, וְשֶׁרַגְלָיו שֶׁהוּא קָלוּטוֹת כְּשֶׁל חֲמוֹר, וְהַשָּׁחוּל וְהַכָּסוּל. אֵיזֶהוּ שָׁחוּל – שֶׁנִּשְׁמְטָה יְרֵיכוֹ, וְכָסוּל – שֶׁאַחַת מִיְּרֵיכַיִם גְּבוֹהוֹת.

MISHNA An animal with five legs,[H] or one that has only three, or one whose hooves on its legs were closed like those of a donkey[H] and not split, or the *shaḥul*, or the *kasul* may be slaughtered. What is a *shaḥul*? It is an animal with a thighbone that was dislocated.[N] And what is a *kasul*? It is an animal whose build is asymmetrical in that one of its thighs is higher than the other.

גמ' אָמַר רַב הוּנָא: לֹא שָׁנוּ אֶלָּא שֶׁחָסֵר וְיָתֵר בַּיָּד, אֲבָל בָּרֶגֶל – טְרֵפָה נַמִּי הָוֵי, דְּכָל יָתֵיר – כִּנְטוּל דָּמֵי.

GEMARA The mishna teaches that an animal with five legs or three legs is blemished. Rav Huna says: The Sages taught this only in a case where the animal was missing or had an additional foreleg. But if it was missing or had an additional hind leg, not only is it blemished, but it is also a *tereifa*.[NH] The reason is that any extra limb is like a removed limb, and an animal whose hind leg was removed is a *tereifa*.

NOTES

There was an incident in Piran [*beFiran*] of Beit Menaḥem – מַעֲשֶׂה בְּפִירָן שֶׁל בֵּית מְנַחֵם: Rashi explains that Piran, or Piroz, according to the version of the *Shita Mekubbetzet*, is the name of a place. Others maintain, based on the *Tosefta*, that the text should state: With regard to a cow [*befara*]. In addition, there are manuscripts that state: With his bull [*befaro*], which suits the context better, as the incident concerns the testicles of a male.

An animal with a thighbone that was dislocated – שֶׁנִּשְׁמְטָה יְרֵיכוֹ: The top of the thigh bone, the femur, rests in a circular opening alongside the bone of the tail, like a pestle in a mortar. The mishna is referring to a sprain in which the bone is moved from its place, resulting in the dislocation of the thigh.

It is also a *tereifa* – טְרֵפָה נַמִּי הָוֵי: One may not slaughter a firstborn that is a *tereifa*, despite the fact that it is blemished, as it is prohibited to eat it.

HALAKHA

An animal with five legs – בַּעַל חָמֵשׁ רַגְלַיִם: If an animal has five legs or only three, this constitutes a blemish and the animal is disqualified for sacrifice on the altar. If the animal was a male firstborn of a kosher animal, it may be slaughtered and consumed outside the Temple, even in the present day when there are no experts on this matter (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:5; *Tur*, *Yoreh De'a* 309).

Closed like those of a donkey – קְלוּטוֹת כְּשֶׁל חֲמוֹר: If the hooves on one of the forelegs or hind legs of a firstborn were round like those of a donkey, even if the hooves were split and spread out, this is a blemish and one may slaughter the firstborn, as stated by Rav Pappa. This applies even nowadays when there are no experts on these matters (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:5; *Tur*, *Yoreh De'a* 309).

But if it was missing or had an additional hind leg it is also a *tereifa* – אֲבָל בָּרֶגֶל טְרֵפָה נַמִּי הָוֵי: An animal that was born with a hind leg missing or with an extra hind leg is a *tereifa*, since any extra limb is like a removed limb, in accordance with the statement of Rav Huna. If it has three forelegs or only one foreleg, it is permitted. One may slaughter a firstborn with this blemish even nowadays (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 8:11; *Tur*, *Yoreh De'a* 309; *Shulḥan Arukh*, *Yoreh De'a* 53:1, 55:4).

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אָמַר רַב פַּפָּא: לָא תֵּימָא דַּעֲגִילָן וְלָא סְדִיקָן, אֶלָּא כֵּיוָן דַּעֲגִילָן – אַף עַל גַּב דִּסְדִיקָן.

With regard to the ruling of the mishna that an animal whose hooves were closed like those of a donkey is blemished, **Rav Pappa says: Do not say** that it is a blemish only in a case **where** its hooves are entirely like those of a donkey, i.e., **round and not split** at all. **Rather, when they are round, even though they are** also **split,** it is still considered a blemish.

"וְהַשָּׁחוּל וְהַכָּסוּל" וכו'. תָּנוּ רַבָּנַן: אֵיזֶהוּ כָּסוּל וְאֵיזֶהוּ שָׁחוּל? שָׁחוּל – שֶׁנִּשְׁמְטָה יֵרֵיכוֹ, כָּסוּל – שֶׁרַגְלוֹ אֶחָד בְּתוֹךְ הַכֶּסֶל וְרַגְלוֹ אֶחָד עַל גַּבֵּי הַכֶּסֶל. תָּנָא: הַשָּׁרוּעַ וְהַקָּלוּט; שָׁרוּעַ – שֶׁנִּשְׁתַּרְבֵּב לוֹ יֵרֵיכוֹ, קָלוּט – שֶׁרַגְלָיו קְלוּטוֹת כְּשֶׁל חֲמוֹר וּכְשֶׁל סוּס.

The mishna teaches: **Or the *shaḥul*, or the *kasul*** may be slaughtered. In this regard, **the Sages taught: What is** the ***kasul* and what is** the ***shaḥul*?** The ***shaḥul*** is an animal with **a thighbone that was dislocated.** The ***kasul*** is an animal that is irregular in **that one of its legs is inside the loin,** i.e., in its proper place, **and** in **one of its legs** the bone is dislocated and is **above the loin.** It is **taught** in a *baraita*: What are **the *saru'a*** [H] **and *kalut*** mentioned in the Torah (see Leviticus 22:23) among the animals disqualified from being sacrificed? The ***saru'a*** is one **whose thigh is longer** than the other;[N] the ***kalut*** is one **whose** hooves on **its legs are closed like** those **of a donkey and like** those **of a horse.**

מתני' נִשְׁבַּר עֶצֶם יָדוֹ וְעֶצֶם רַגְלוֹ, אַף עַל פִּי שֶׁאֵינוֹ נִיכָּר. מוּמִין אֵלּוּ מָנָה אִילָא בְּיַבְנֶה, וְהוֹדוּ לוֹ חֲכָמִים.

MISHNA Additional blemishes that permit the slaughter of the firstborn include those where **the bone of its foreleg or the bone of its hind leg was broken,** [H] **even though it is not conspicuous.** With regard to **these blemishes** listed in this chapter, **Ila,** who was expert in blemishes of the firstborn, **enumerated** them **in Yavne,** [B] **and the Sages deferred to his** expertise.

וְעוֹד שְׁלֹשָׁה הוֹסִיף, אָמְרוּ לוֹ: לֹא שָׁמַעְנוּ אֶת אֵלּוּ; שֶׁגַּלְגַּל עֵינוֹ עָגוֹל כְּשֶׁל אָדָם, וּפִיו דּוֹמֶה כְּשֶׁל חֲזִיר, וְשֶׁנִּיטַל רוֹב הַמְדַבֵּר בִּלְשׁוֹנוֹ. בֵּית דִּין שֶׁל אַחֲרֵיהֶן אָמְרוּ: הֲרֵי זֶה מוּם.

And Ila **added three additional** blemishes, and the Sages **said to him: We did not hear** about **those.** Ila added: An animal **whose eye is round like** that **of a person,** [BH] **or whose mouth is similar to** that **of a pig,** [H] **or where most of** the segment of **its tongue** corresponding to the segment that facilitates **speech** in the tongue of a person **was removed.** [H] **The court that followed them said** with regard to each of those three blemishes: **That is a blemish** that enables the slaughter of the firstborn.

גמ' אֵינוֹ נִיכָּר מִי קָא הָוֵי מוּמָא? אָמַר רַב פַּפָּא: אֵינוֹ נִיכָּר – מֵחֲמַת עַצְמוֹ, אֲבָל נִיכָּר מֵחֲמַת מְלָאכָה.

GEMARA The mishna teaches that if the bone of its foreleg or the bone of its hind leg was broken it is considered a blemish, despite the fact that it is not conspicuous. The Gemara asks: If **it is not conspicuous, is it a blemish?** A blemish must be on an exposed part of the body (see 37b). **Rav Pappa says:** The mishna means that **it is not conspicuous on its own account,** i.e., the shape of the leg is no different from the usual. **But it is conspicuous on account of** its **work,** i.e., the manner in which the animal walks.

NOTES

The *saru'a* is one whose thigh is longer [*shenishtarbev*] than the other – שָׁרוּעַ שֶׁנִּשְׁתַּרְבֵּב לוֹ יֵרֵיכוֹ: Some commentaries maintain that this is the *shaḥul* of the mishna, i.e., an animal with a thigh bone that was dislocated, as *nishtarbev* means dislocated. Rashi here and in his commentary on the Torah indicates that there is a difference between *saru'a*, which is an animal born with one limb larger than the other, and *shaḥul*, which refers to an animal whose limbs are equal in size but one of its thighs was dislocated (see *Tur*, *Yoreh De'a* 309 and Responsa of the *Ḥatam Sofer*, *Yoreh De'a* 56).

BACKGROUND

Yavne – יַבְנֶה: Yavne, a town in Judea, was a center of Torah study during the Second Temple period. After the destruction of the Temple, Rabban Yoḥanan ben Zakkai reestablished the Sanhedrin there and the town attained great prominence as an important Torah center. As the seat of the Sanhedrin, Yavne was the spiritual center of the entire Jewish population in Eretz Yisrael. The Yavne Yeshiva, initially headed by Rabban Yoḥanan ben Zakkai and later by Rabban Gamliel II of Yavne, attracted many of the greatest Torah scholars of that era. At Yavne, many ordinances were instituted to restore Jewish religious and spiritual life after the destruction of the Temple. It remained an important center until the time of the bar Kokheva rebellion.

Whose eye is round like that of a person – שֶׁגַּלְגַּל עֵינוֹ עָגוֹל כְּשֶׁל אָדָם:



Normal eye of a sheep, with a rectangular pupil

HALAKHA

The *shaḥul* or the *kasul*…the *saru'a* – הַשָּׁחוּל וְהַכָּסוּל…הַשָּׁרוּעַ: If the thighbone of an animal was dislocated, or if one of its thighs is higher than the other, this is a blemish for which a firstborn may be slaughtered even in the present time, despite the lack of experts. The *Tur* adds the case of an animal that has one thigh larger than the other (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:9; *Tur*, *Yoreh De'a* 309).

The bone of its foreleg or the bone of its hind leg was broken – נִשְׁבַּר עֶצֶם יָדוֹ וְעֶצֶם רַגְלוֹ: If the bone of the foreleg or the bone of the hind leg was broken, and this is noticeable when the animal moves, it is a blemish, even if it is not discernible when the animal merely stands (see *Kesef Mishne* and Mahari Kurkus). One may slaughter a firstborn with this blemish even in the present (Rambam *Hilkhot Avoda*, *Hilkhot Biat HaMikdash* 7:9; *Tur*, *Yoreh De'a* 309).

An animal whose eye is round like that of a person – שֶׁגַּלְגַּל עֵינוֹ עָגוֹל כְּשֶׁל אָדָם: If the eye of an animal is round like that of a person, this is a blemish, in accordance with the ruling attributed in the mishna to the court that followed them. The Rambam does not mention Rav Yosef's distinction in the Gemara, but the *Tur* writes that this refers to the area where the eye sits, i.e., the white part (*Perisha*), which in animals is elongated rather than round. One may slaughter a firstborn with this blemish even nowadays (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2; *Tur*, *Yoreh De'a* 309).

Whose mouth is similar to that of a pig – פִּיו דּוֹמֶה כְּשֶׁל חֲזִיר: If the mouth of a firstborn is similar to that of a pig, i.e., its upper lip overlaps its lower lip, even if it is not pointed like a skewer this is a blemish and one may slaughter such a firstborn even in the present time. This *halakha* is in accordance with the ruling attributed in the mishna to the court that followed them and the explanation of the Gemara (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2; *Tur*, *Yoreh De'a* 309).

Most of its tongue corresponding to the segment that facilitates speech in the tongue of a person was removed – נִיטַל רוֹב הַמְדַבֵּר בִּלְשׁוֹנוֹ: If the majority of the part of an animal's tongue corresponding to the part used for speaking by people is removed, this is a blemish. This *halakha* is in accordance with the ruling attributed in the mishna to the court that followed them, and one may slaughter a firstborn with such a blemish even nowadays (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:7; *Tur*, *Yoreh De'a* 309).

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HALAKHA

A woman who miscarries a fetus in the form of a type of domesticated animal, undomesticated animal, or bird – הַמַּפֶּלֶת מִין בְּהֵמָה וְחַיָּה וְעוֹף: In a case where a woman miscarries a fetus in the form of a type of domesticated animal, undomesticated animal, or bird, if its face was like that of a human then it is considered like a child, notwithstanding the form of its body. Consequently, if the miscarried fetus appears to be male, the woman must observe the period of impurity for giving birth to a male; if it appeared to be female she observes the period for a female. If it is uncertain whether it is male or female, she observes the more severe restrictions from the case of the birth of a male and the more severe restrictions from the case of the birth of a female. If its face is not like that of a human, then even if the rest of its body is humanlike in form, it is not considered a child, and its mother is not rendered ritually impure like a woman after childbirth (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 10:8; *Shulḥan Arukh*, *Yoreh De'a* 194:3).

The lower jaw of the firstborn protruded beyond the upper jaw – הַלֶּחִי הַתַּחְתּוֹן עוֹדֵף עַל הָעֶלְיוֹן: If the lower jaw of a firstborn protrudes beyond its upper jaw, that is a blemish for which one may slaughter a firstborn even nowadays (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:7; *Tur*, *Yoreh De'a* 309).

"מוּמִין אֵלּוּ מָנָה" וכו'. לְמֵימְרָא דְּלָאו הַיְינוּ אוֹרְחֵיהּ? וּרְמִינְהוּ: הַמַּפֶּלֶת מִין בְּהֵמָה וְחַיָּה וְעוֹף, בֵּין טְמֵאִין בֵּין טְהוֹרִין, אִם זָכָר – תֵּשֵׁב לְזָכָר,

§ The mishna teaches that with regard to **these blemishes** listed in this chapter, Ila **enumerated** them in Yavne, and he added three more, including an animal whose eye is round like that of a person. The Gemara asks: Is this **to say that it is not the manner** of animals to have eyes of this kind? **And** one can **raise a contradiction** from a mishna (*Nidda* 21a): With regard to a woman **who miscarries** a fetus in the form of **a type of domesticated animal, undomesticated animal, or bird,**[H] **whether it is a non-kosher** animal **or whether it is a kosher** animal, **if it is male,** the woman **observes** the periods of impurity, i.e., seven days, and purity, i.e., thirty-three days, established in the Torah **for** a woman who gives birth to **a male.**

אִם נְקֵבָה – תֵּשֵׁב לִנְקֵבָה; אֵינוֹ יָדוּעַ – תֵּשֵׁב לְזָכָר וְלִנְקֵבָה, דִּבְרֵי רַבִּי מֵאִיר.

If it is **female,** the woman **observes** the periods of impurity, i.e., fourteen days, and purity, i.e., sixty-six days, established in the Torah **for** a woman who gives birth to **a female.** If its sex **is unknown,** the woman **observes** the more severe restrictions from the case of the birth **of a male and** the more severe restrictions from the case of the birth **of a female:** She is impure for fourteen days like a woman who gave birth to a female, but blood that she sees thereafter is pure until only forty days after birth, like a woman who gave birth to a male. This is **the statement of Rabbi Meir.**

וְאָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: מַאי טַעֲמֵיהּ דְּרַבִּי מֵאִיר – הוֹאִיל וְגַלְגַּל עֵינוֹ עָגוֹל כְּשֶׁל אָדָם! אָמַר רַב יוֹסֵף: לָא קַשְׁיָא, הָא – בִּאוּכְמָא, הָא – בְּחִיוָּרָא.

And Rabba bar bar Ḥana says that **Rabbi Yoḥanan says: What is the reason of Rabbi Meir? Since the eye** of these animals **is round like** that **of a person,** a woman who miscarries a fetus of this kind is impure. **Rav Yosef said** in resolution of this apparent contradiction: It is **not difficult; this** is referring **to the black** portion of the eye, whereas **that** is referring **to the white** portion of the eye.[N]

"וּפִיו דּוֹמֶה כְּשֶׁל חֲזִיר". אָמַר רַב פַּפָּא: לָא תֵּימָא – דְּשִׁפְּיד וּפָרוֹס, אֶלָּא כֵּיוָן דְּפָרוֹס – אַף עַל גַּב דְּלָא שְׁפִיד.

The mishna teaches: **Or its mouth is similar to** that **of a pig. Rav Pappa says: Do not say** that this is referring only to a case **where** the mouth is **pointed and** the upper lip **overlaps** the bottom lip,[N] exactly like that of a pig. **Rather, when it overlaps, even though it is not pointed,** this is a blemish.

"וְשָׁנִיטַל רוֹב הַמְדַבֵּר שֶׁבִּלְשׁוֹנוֹ". מַתְנִיתִין מַנִּי? רַבִּי יְהוּדָה הִיא. דְּתַנְיָא: וְאֶת שֶׁנִּיטַל רוֹב הַלָּשׁוֹן, רַבִּי יְהוּדָה אוֹמֵר: רוֹב הַמְדַבֵּר שֶׁל לְשׁוֹנוֹ.

The mishna teaches: **Or that most of** the segment of **its tongue** corresponding to the segment that facilitates **speech** in the tongue of a person **was removed.** The Gemara asks: **Whose** opinion is expressed in **the mishna? It is** the opinion of **Rabbi Yehuda, as it is taught** in a *baraita*: **Or that most of its tongue was removed; Rabbi Yehuda says: Most of** the segment of **its tongue** corresponding to the segment that facilitates **speech** in the tongue of a person must be removed to be considered a blemish.

מתני' וּמַעֲשֶׂה שֶׁהַלֶּחִי הַתַּחְתּוֹן עוֹדֵף עַל הָעֶלְיוֹן, וְשָׁאַל רַבָּן גַּמְלִיאֵל לַחֲכָמִים, וְאָמְרוּ: הֲרֵי זֶה מוּם.

MISHNA **And** there was **an incident where the lower jaw** of the firstborn **protruded beyond the upper** jaw,[H] **and Rabban Gamliel asked the Sages** for a ruling, **and they said: That is a blemish** that enables the slaughter of the firstborn.

NOTES

This is referring to the black of the eye whereas that is referring to the white of the eye – הָא בְּאוּכְמָא הָא בְּחִיוָּרָא: The early commentaries present conflicting interpretations of this answer. Some state that the black of the eye of animals, i.e., the pupil, is round like that of humans, while the white part is elongated (Meiri to *Nidda* 23a; one version of the text of Rashi's commentary). The Ramban explains the answer in the opposite manner, that the white portion of the eye is round like that of humans, while the black portion is unlike that of humans. The version of the text accepted by Rashi and many other early commentaries is: This is referring to the black; that is referring to a crack [*tzirei*], i.e., the eye socket, which is round only in humans (Rabbeinu Gershom Meor HaGola). Yet others have a version that reads: *Tzihara*, and explain that this refers to the red that surrounds the black, i.e., the iris [*sira*] mentioned in the mishna on 38a, which divides between the white and black in the eye (Rabbeinu Ḥananel; see *Arukh*).

Do not say that this is only where the mouth is pointed [*dishfid*] and the upper lip overlaps [*ufarus*] the bottom lip – לָא תֵּימָא דְּשִׁפְּיד וּפָרוֹס: Rashi suggests two interpretations of the word *shefid*: One is that the mouth is round and the second is that the upper cheeks narrow and become pointed like a skewer [*shipud*]. With regard to the term *parus*, Rashi explains that the upper lip is spread out [*perusa*] and widens over the lower lips. Others maintain that *parus* means folding, i.e., the upper lip folds upward (Rabbeinu Gershom Meor HaGola).

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גמ׳ מַאי תְּנָא דְּקָתָנֵי ״וּמַעֲשֶׂה״? מִשּׁוּם דְּתָנֵן: פִּיו דּוֹמֶה לַחֲזִיר, וּפְלִיגִי רַבָּנַן עֲלֵיהּ דְּרַבִּי; וְקָאָמְרִינַן: כִּי פְּלִיגִי רַבָּנַן עֲלֵיהּ דְּרַבִּי – בְּשִׂפָתוֹ עֶלְיוֹנָה עוֹדֶפֶת עַל הַתַּחְתּוֹנָה, אֲבָל שֶׁהַתַּחְתּוֹנָה עוֹדֶפֶת עַל הָעֶלְיוֹנָה – הֲרֵי זֶה מוּם.

GEMARA

The Gemara asks: **What** is the ruling **taught** in the previous mishna **that** the *tanna* is referring to when he **teaches** here: **And** there was **an incident?** The Gemara answers: **Since we learned** in the list of blemishes in the previous mishna the case where **its mouth is similar to** that **of a pig, and the Rabbis disagree with Rabbi** Ila in that case, **we say** here that **when the Rabbis disagree with Rabbi** Ila, it is only in a case **where its upper lip overlaps the lower** lip. **But** in a case **where the lower** jaw **protrudes beyond the upper** jaw,[B] everyone agrees that **this is a blemish.**

BACKGROUND

The lower jaw protrudes beyond the upper jaw – הַתַּחְתּוֹנָה עוֹדֶפֶת עַל הָעֶלְיוֹנָה:



Goat with an underbite

Perek **VI**
Daf **40** Amud **b**

וּמַעֲשֶׂה נַמִּי שֻׁלְּחֵי הַתַּחְתּוֹן עוֹדֵף עַל הָעֶלְיוֹן, שָׁאַל רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל לַחֲכָמִים, וְאָמְרוּ: הֲרֵי זֶה מוּם.

The Gemara continues this version of the mishna: **And** there was **also an incident where the lower jaw** of the firstborn **protruded beyond the upper** jaw, and **Rabban Shimon ben Gamliel asked the Sages**[N] for a ruling, **and they said: That is a blemish** that enables the slaughter of the firstborn.

וְהָא גַּבֵּי אָדָם הוּא דִּתְנַן: שִׂפָתוֹ הָעֶלְיוֹנָה עוֹדֶפֶת עַל הַתַּחְתּוֹנָה, אוֹ שֶׁהַתַּחְתּוֹנָה עוֹדֶפֶת עַל הָעֶלְיוֹנָה – הֲרֵי זֶה מוּם; גַּבֵּי אָדָם הוּא דִּכְתִיב: ״אִישׁ אִישׁ מִזֶּרַע אַהֲרֹן״ – אִישׁ שֶׁשָּׁוֶה בְּזַרְעוֹ שֶׁל אַהֲרֹן, אֲבָל בִּבְהֵמָה לָא!

The Gemara challenges: **But** it is **with regard to** the blemishes of **a person that we learned** in a mishna (44a): If **his upper lip protrudes beyond the lower** lip[H] **or** his **lower** lip **protrudes beyond the upper** lip, **that is a blemish.** And **it is** only **with regard to a person that it is written: "Whatever man of the seed of Aaron"** (Leviticus 22:4), which teaches that in order to be fit for the Temple service a priest must be **a man who is equal to the seed of Aaron,** i.e., he has an ordinary appearance like other priests. **But** this requirement is **not** stated **with regard to an animal,** and therefore an animal should not be considered blemished if its lower lip protrudes beyond the upper lip.

אֲמַר רַב פַּפָּא: לָא קַשְׁיָא, הָא – דְּאִית בָּהּ עֶצֶם, הָא – דְּלֵית בָּהּ עֶצֶם.

Rav Pappa said in response: That is **not difficult; this** mishna is referring to a case **where** the lower jaw **contains a bone** that is longer than the upper jaw,[HN] in which case it is a blemish even for an animal, whereas **that** mishna is referring to a case **where** the lower jaw **does not contain a bone,** and therefore it is a blemish only in the case of a person.

HALAKHA

If his upper lip protrudes beyond the lower lip – שִׂפָתוֹ הָעֶלְיוֹנָה עוֹדֶפֶת עַל הַתַּחְתּוֹנָה: A priest whose upper lip protrudes over his lower lip, or whose lower lip protrudes beyond the upper one, is disqualified from performing the Temple service, as stated in the mishna on 44a (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:8).

Where the lower jaw contains a bone that is longer than the upper jaw – דְּאִית בָּהּ עֶצֶם: If the upper jaw of a firstborn animal protrudes beyond its lower jaw, this is a blemish, on account of which one may slaughter a firstborn even nowadays, provided that there is a bone in that protrusion (*Tur*, *Yoreh De'a* 309).

NOTES

Rabbi Shimon ben Gamliel asked the Sages – שָׁאַל רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל לַחֲכָמִים: Although the standard text in the Gemara refers to Rabbi Shimon ben Gamliel, the actual text of the mishna refers to Rabban Gamliel. Therefore, many commentaries emend the text of the mishna to state: Rabban Shimon ben Gamliel, to reflect that of the Gemara (*Shita Mekubbetzet*; *Baḥ*; Rashash).

This is where the lower jaw contains a bone that is longer than the upper jaw – הָא דְּאִית בָּהּ עֶצֶם: This difficulty, and Rav Pappa's answer, apparently applies to the opinions of all the *tanna'im*. Consequently, according to the Gemara's conclusion, when both Ila and the court that followed them ruled that a protruding jaw is considered a blemish, they were referring specifically to a case where there is a bone. The ruling of the Rambam with regard to this case indicates that this requirement of a bone is necessary only for a situation where the lower jaw protrudes beyond the upper jaw. But if the upper jaw protrudes beyond the lower jaw, this is the case about which Ila testified in Yavne that when its mouth is similar to that of a pig it is a blemish even if there is no bone, and the court that followed them ruled in accordance with his opinion (see *Ḥasdei David* on the *Tosefta*, *Likkutei Halakhot*, and *Ḥazon Ish*).

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BACKGROUND

The tail of a kid that is similar to that of a pig – זְנַב הַגְּדִי שֶׁהוּא דּוֹמֶה לְשֶׁל חֲזִיר:



Normal appearance of a kid's tail

מתני׳ אוֹזֶן הַגְּדִי הָיְתָה כְּפוּלָה, אָמְרוּ חֲכָמִים: בְּזְמַן שֶׁהוּא עָצֶם אֶחָד – מוּם, בְּזְמַן שֶׁאֵין בּוֹ עָצֶם – אֵינוֹ מוּם. רַבִּי חֲנַנְיָא בֶּן גַּמְלִיאֵל אוֹמֵר: זְנַב הַגְּדִי שֶׁהוּא דּוֹמֶה לְשֶׁל חֲזִיר, וְשֶׁאֵין בָּהּ שָׁלֹשׁ חוּלְיוֹת – הֲרֵי זֶה מוּם.

MISHNA With regard to **the ear of the kid** that **was doubled**[H] and appeared like two ears, **the Sages said: When** the additional ear **is one bone,** i.e., it has its own cartilage, it is **a blemish; when it does not have** its own **bone**[N] **it is not a blemish. Rabbi Ḥananya ben Gamliel says:** In the case of **the tail of a kid that is similar to** that **of a pig**[BH] **or** one that is so short **that it does not have three joints,**[H] **that is a blemish.**

גמ׳ תָּנוּ רַבָּנַן: פִּיו בָּלוּם וְרַגְלָיו מְבוּלָמוֹת, מֵחֲמַת הָרוּחַ – אֵינוֹ מוּם, מֵחֲמַת הָעֶצֶם – הֲרֵי זֶה מוּם. אָזְנָיו כְּפוּלוֹת, בְּחַסְחַסוּת אַחַת – הֲרֵי זֶה מוּם, בִּשְׁתֵּי חַסְחַסְיוֹת – אֵינוֹ מוּם.

GEMARA **The Sages taught:** In a case where **the mouth** of a firstborn animal is **swollen,**[H] **and** likewise, if **its legs are swollen,**[HN] the following distinction applies: If it is swollen **due to the wind,** i.e., it simply swelled up, **it is not a blemish.** If it is swollen **due to** a particularly large **bone,**[N] **this is a blemish.** If **its ears are doubled,** in a case **where** it has **one cartilage, this is a blemish;** in a case **where** it has **two cartilages, this is not a blemish.**

״רַבָּן גַּמְלִיאֵל אוֹמֵר: זְנַב הַגְּדִי שֶׁהוּא דּוֹמֶה לְשֶׁל חֲזִיר״. אָמַר רַב פַּפָּא: לָא תֵּימָא דְּקִטְינָא, אֶלָּא דִּכְרִיכָא, אַף עַל גַּב דְּאַלִּימָא.

§ The mishna teaches that **Rabban Gamliel says:**[N] With regard to **the tail of a kid that is similar to** that **of a pig,** that is a blemish. **Rav Pappa says: Do not say** that it is a blemish only **where** its tail is **thin** like that of a pig; **rather,** if it is **round,** i.e., curly like a pig's tail, **even though it is thick,** like the tail of a goat, this is considered a blemish.

HALAKHA

With regard to the ear of the kid that was doubled – אוֹזֶן הַגְּדִי הָיְתָה כְּפוּלָה: The Rambam writes: If an ear was doubled into two, this is a blemish. Even in the case of a goat, whose ears generally hang down and appear double, if there are two cartilages in the ear, that is a blemish. But if the ear has only one cartilage it is fit. The Rambam bases this ruling on a version of the mishna and *baraita* that reach the opposite conclusion of that stated in the standard version cited in the Gemara (*Kesef Mishne*; see *Beit Yosef*). The *Tur* writes: With regard to the ear of a goat that was doubled over and looked like two ears, if it is only one bone, i.e., the ear was folded over but joined together, this is a blemish. If it is not all one bone, i.e., the two parts of the ear are separated, it is not a blemish. This ruling is in accordance with the standard version of the mishna and the *baraita* cited in the Gemara, in accordance with the explanation of Rashi (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:3; *Tur*, *Yoreh De'a* 309).

The tail of a kid that is similar to that of a pig – זְנַב הַגְּדִי שֶׁהוּא דּוֹמֶה לְשֶׁל חֲזִיר: The Rambam writes: If the tail of a goat was soft and hanging, like that of a pig, this is a blemish, in accordance with the opinion of Rabbi Ḥananya ben Gamliel. The Ra'avad writes that according to the version of the Gemara possessed by the Rambam, Rav Pappa does not refer to the tail as round [*kerikha*], but soft [*rekhikha*] (see *Leḥem Mishne*). The *Tur* writes: If the tail of a goat is round like that of a pig, this is a blemish, even if it is of regular thickness. This follows the standard version of the Gemara and Rashi's explanation (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:4; *Tur*, *Yoreh De'a* 309).

That it does not have three joints – שֶׁאֵין בָּהּ שָׁלֹשׁ חוּלְיוֹת: If the tail of an animal is short, that is a blemish. What is defined as short? In the case of a goat, if it has one joint it is short; if it has two joints, it is fit. With regard to a lamb, it is a blemish if there are two joints, but it is fit if it has three. The *Tur* includes these in his list of those unequivocal blemishes for which one may slaughter a firstborn in the present time (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:4; *Tur*, *Yoreh De'a* 309).

The mouth of a firstborn animal is swollen – פִּיו בָּלוּם: The Rambam writes: If the mouth is swollen because it was born this way, that is a blemish, but if it was swollen due to the wind, this is not a blemish, as stated in the *baraita*. The *Tur* writes: If the lips open properly, but it cannot open its mouth because the cheekbones are adhered to each other, this is a blemish. But if the lips open to the same extent as the cheeks, even if neither open in the proper manner, it is not a blemish. This ruling of the *Tur* follows the interpretation of Rashi, in accordance with the version of the text that reads: Due to the gap (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:7; *Tur*, *Yoreh De'a* 309).

If its legs are swollen – רַגְלָיו מְבוּלָמוֹת: The Rambam writes: If the legs are swollen because it was born this way, that is a blemish; if they were swollen due to the wind, it is not a blemish, as stated in the *baraita*. The *Tur* writes: In a case where the hooves of an animal's forelegs, and some say its hind legs (see *Baḥ*), are narrow, rather than wide in the usual manner, then if the flesh is narrow and the bone widens and protrudes outward, this is a blemish, but if the flesh and bone are the same, i.e., they are both narrower than usual, it is not a blemish, in accordance with the explanation of Rashi (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:9; *Tur*, *Yoreh De'a* 309).

NOTES

When it does not have its own bone – בְּזְמַן שֶׁאֵין בּוֹ עָצֶם: Rashi's version of the mishna reads: And if it is not one bone but two, it is not a blemish. According to this explanation, when the mishna states: When it is one bone, it means that the ear is folded over but remains attached, and when it states: And if it is not one bone, it means that the two parts of the ear are separated. Rashi further writes that it is difficult to understand the reasoning behind this *halakha*, since the reverse appears more logical, as an additional limb should be considered a blemish (see commentary of Rabbi Ovadya Bartenura). Indeed, the Rambam reads the mishna as saying merely: When it is one bone, this is not a blemish. He explains in the opposite manner, that when it appears as a single piece, this is not a blemish; it is only when it looks like two ears, as each piece has its own cartilage, that it is a blemish. This interpretation can also be inferred from the *Tosefta* (4:13), as the version of the text there is the opposite of the text of the *baraita* cited in the Gemara here.

The mouth of a firstborn is swollen [*balum*] and its legs are swollen – פִּיו בָּלוּם וְרַגְלָיו מְבוּלָמוֹת: Rashi cites two interpretations of the term *balum*: Either it means narrow (see also Rabbeinu Gershom Meor HaGola) or swollen. Elsewhere Rashi states that *balum* means closed; in other words, the animal cannot open its mouth (see *Ḥullin* 107b). Some commentaries explain *balum* here in a similar manner, which may also be similar to Rashi's first interpretation, as the mouth is too narrow to open (*Tosafot*; Rosh).

Due to the wind [*haruaḥ*]…due to a particularly large bone – מֵחֲמַת הָרוּחַ...מֵחֲמַת הָעֶצֶם: Rashi's version of the text reads: Due to the gap [*harevaḥ*], and he explains that if the animal's mouth is ordinary in form but it lacks sufficient room to open wide, this is not a blemish. It is only if it cannot open its mouth because the bones are closed tight, while only its lips spread apart, that this is a blemish. Similarly, if its legs are narrow but the ratio between the size of the flesh and that of the bone is regular, that is not a blemish, whereas if the bone is too small relative to the flesh and the flesh spreads out, it is a blemish.

As noted by Rashi, the standard version of the text: Due to the wind [*haruaḥ*], is appropriate only according to the interpretation that *balum* means swollen. In other words, if the unusual appearance is not due to a bone, but the result of a disease or infection such as *ditza* (see *Beitza* 22a), that is not a blemish. The *Shita Mekubbetzet* reads the word: Wind [*zika*], in Rashi, instead of *ditza*. The Rambam indicates that the phrase translated here as: Due to the bone [*etzem*], actually means: Due to itself [*atzmo*], i.e., the animal was born that way rather than suffering from some illness (see Mahari Kurkus).

Rabban Gamliel says – רַבָּן גַּמְלִיאֵל אוֹמֵר: There is a discrepancy between the citation of the mishna by the Gemara and the text of the mishna itself, similar to the discrepancy noted with regard to Rabban Gamliel and Rabban Shimon ben Gamliel. The standard text cites Rabban Gamliel as the *tanna* who made this statement, while the text of the mishna cited Rabbi Ḥananya ben Gamliel. Here too, some alter the text to read: Rabbi Ḥananya ben Gamliel, to conform with the mishna (*Masoret HaShas*).

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״אוֹ שֶׁאֵין בָּהּ שָׁלֹשׁ חוּלְיוֹת״ וכו׳. אָמַר רַב הוּנָא: בִּגְדֵי, שְׁתַּיִם – הֲרֵי זֶה מוּם, שָׁלֹשׁ – אֵינוֹ מוּם; בְּטָלֶה, שָׁלֹשׁ – הֲרֵי זֶה מוּם, אַרְבַּע – אֵינוֹ מוּם. מֵיתִיבִי: בִּגְדֵי, אַחַת – הֲרֵי זֶה מוּם, שְׁתַּיִם – אֵינוֹ מוּם; בְּטָלֶה, שְׁתַּיִם – הֲרֵי זֶה מוּם, שָׁלֹשׁ – אֵינוֹ מוּם! תִּיוּבְתָּא דְּרַב הוּנָא.

§ The mishna stated: **Or** if the tail of a kid is so short **that it does not have three joints,** that is a blemish. **Rav Huna says: In** the case of the tail of **a kid,** if it has **two** joints, **that is a blemish;** if it has **three** joints, **it is not a blemish. With regard to a lamb,** if it has **three** joints, **that is a blemish;** if it has **four** joints, **it is not a blemish.** The Gemara **raises an objection** from a *baraita*: **In** the case of **a kid,** if its tail has **one** joint, **that is a blemish;** if it has **two** joints, **it is not a blemish. With regard to a lamb,** if it has **two** joints, **that is a blemish;** if it has **three** joints, **it is not a blemish.** The Gemara concludes: This is **a conclusive refutation of** the opinion of **Rav Huna.**

וְרַב הוּנָא, מַתְנִיתִין אַטָּעִיתֵיהּ; אִיהוּ סָבַר: מִדְּרֵישָׁא בִּגְדֵי – סֵיפָא נַמִּי בִּגְדֵי, וְלָא הִיא, רֵישָׁא בִּגְדֵי, וְסֵיפָא בְּטָלֶה.

The Gemara comments: **And Rav Huna** issued his statement because **the mishna misled him. He thought** that **from** the fact **that the first clause** is referring **to a kid,** whose tail is similar to that of a pig, it can be inferred that **the latter clause,** with its mention of three joints, is **also** referring **to a kid. But it is not so.** Rather, **the first clause** is referring **to a kid, but the latter clause** is referring **to a lamb,** as explained in the *baraita*.

מתני׳ רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: אֶת שֶׁיַּבֶּלֶת בְּעֵינָיו, וְשֶׁנִּפְגַּם עֶצֶם יָדוֹ וְרַגְלוֹ, וְשֶׁנִּפְרַק עַצְמוֹ שֶׁל פִּיו. עֵינוֹ אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה, אָזְנוֹ אֶחָד גְּדוֹלָה וְאֶחָד קְטַנָּה, בְּמַרְאֶה אֲבָל לֹא בְּמִדָּה. רַבִּי יְהוּדָה אוֹמֵר: שְׁתֵּי בֵיצָיו, אַחַת גְּדוֹלָה כִּשְׁתַּיִם שֶׁבַּחֲבִירְתָּהּ. וְלֹא הוֹדוּ לוֹ חֲכָמִים.

MISHNA

Rabbi Ḥanina ben Antigonus says that these are blemished animals: One **that has a wart**[B] **in its eyes; and** one **where the bone of its foreleg or hind leg was damaged;**[H] **and** one **where the bone of its mouth,** i.e., its jaw, **was dislocated;**[H] and an animal with **one of its eyes large and one small,**[H] or **one of its ears large and one small**[H] where the difference in size is detectable **by sight, but not** if it is detectable only **by being measured. Rabbi Yehuda says:** An animal is blemished if with regard to **its two testicles, one is as large as two of the other,**[H] **but the Rabbis did not agree with his** opinion.

גמ׳ לְמֵימְרָא דְּיַבֶּלֶת הָוֵי מוּמָא? וּרְמִינְהוּ, וְאֵלּוּ שֶׁאֵין שׁוֹחֲטִין עֲלֵיהֶן לֹא בַּמִּקְדָּשׁ וְלֹא בַּמְּדִינָה: בַּעַל גָּרָב וּבַעַל יַבֶּלֶת!

GEMARA

The mishna teaches that if an animal has a wart in its eyes, it is blemished. The Gemara asks: Is this **to say that a wart is** considered **a blemish? And** one can **raise a contradiction** from the mishna (41a): **And these** are the blemishes **that one does not slaughter** the firstborn **due to them, neither in the Temple nor in** the rest of **the country,** as these are not considered full-fledged blemishes… an animal **with boils** that are moist inside and out, **and** one **with warts.**

וְתִסְבְּרָא? הָא כְּתִיבָא יַבֶּלֶת בְּאוֹרַיְיתָא! אֶלָּא לָא קַשְׁיָא, הָא – בְּגוּפֵיהּ, הָא – בְּעֵינוֹ.

The Gemara responds: **And** how can **you understand** that a wart is not a blemish? After all, **a wart is written in the Torah** in its list of blemishes (see Leviticus 22:22). **Rather,** it is **not difficult,** as **that** mishna, which states that a wart is not a full-fledged blemish, is referring to a blemish **on** the animal's **body,** whereas **this** mention of a wart in the Torah and the mishna here is referring to a wart **in its eye.**

BACKGROUND

Wart – יַבֶּלֶת: This is possibly referring to a dermoid, a congenital condition very commonly found in cows, which is characterized by a cyst that contains within it developmentally mature skin. Such a piece can be pigmented or not, cystic or otherwise, and with or without hair. Alternatively, this wart might be one of the many types of growth that are not congenital, which appear in various forms, some of which have undergone keratinization, the formation of a hard layer known as keratin.

HALAKHA

The bone of its foreleg or hind leg was damaged – נִפְגַּם עֶצֶם יָדוֹ וְרַגְלוֹ: In any case of a visible bone in which there is a crack, that is a blemish, as these are included in the category of maimed [*ḥarutz*] animals, mentioned in the Torah (see Leviticus 22:22). This *halakha* is in accordance with the opinion of Rabbi Ḥanina ben Antigonus, as explained by the Gemara on 41a (*Kesef Mishne*). This is an unequivocal blemish for which one may slaughter a firstborn even in the present time when there are no experts in these matters (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:9; *Tur*, *Yoreh De'a* 309).

The bone of its mouth, i.e., its jaw, was dislocated [*nifrak*] – נִפְרַק עַצְמוֹ שֶׁל פִּיו: If the bone of the mouth of an animal, to which the teeth are attached, was damaged, that is a blemish, as maintained by Rabbi Ḥanina ben Antigonus. This follows an alternative version of the text according to which Rabbi Ḥanina ben Antigonus is referring to a damaged [*nifgam*] bone of this kind. One may slaughter a firstborn on account of such a blemish even nowadays (*Tur*, *Yoreh De'a* 309).

One of its eyes large and one small – עֵינוֹ אַחַת גְּדוֹלָה וְאַחַת קְטַנָּה: If one eye of an animal is as large as that of a calf, while the second is as small as that of a goose, it is a blemish. This ruling is in accordance with the opinion of Rabbi Ḥanina ben Antigonus and the *baraita* cited in the Gemara. This is considered an unequivocal blemish for which one may slaughter an animal even in the present time (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2; *Tur*, *Yoreh De'a* 309).

One of its ears large and one small – אָזְנוֹ אֶחָד גְּדוֹלָה וְאֶחָד קְטַנָּה: The Rambam writes: If one ear of an animal was large and the other was small, even if it was as small as a bean, that is not a blemish. This ruling is not in accordance with the opinion of Rabbi Ḥanina ben Antigonus, but according to the opinion of the Rabbis in the *baraita* cited in the Gemara, as the Rambam maintains that the *baraita* is referring to the ear (Mahari Kurkus; *Beit Yosef*). The *Tur* writes: If one ear was visibly larger than the other, this is a blemish, but if the difference must be measured for it to be discerned, then it is not a blemish, in accordance with the opinion of Rabbi Ḥanina ben Antigonus (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2; *Tur*, *Yoreh De'a* 309).

Its two testicles, one is as large as two of the other – שְׁתֵּי בֵיצָיו אַחַת גְּדוֹלָה כִּשְׁתַּיִם שֶׁבַּחֲבִירְתָּהּ: If one testicle of an animal was larger than the other, that is not a blemish, in accordance with the opinion of the Rabbis (*Tur*, *Yoreh De'a* 309).

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מִכְּדֵי קְרָא סְתָמָא, מַה לִּי בְּגוּפוֹ וּמַה לִּי בְּעֵינוֹ? אֶלָּא לָא קַשְׁיָא, הָא – דְּאִית בָּהּ עֶצֶם, הָא – דְּלֵית בָּהּ עֶצֶם;

The Gemara asks: **Now** consider that **the verse** is written in **an unspecified** manner. **What** difference is it **to me** if the wart is **on its body, and what** difference is it **to me** if the wart is **in its eye?** How is this distinction derived from the verse? The Gemara suggests an alternative explanation: **Rather,** it is **not difficult,** as **this** is referring to a wart **that has a bone,** and **that** is referring to a wart **that does not have a bone.**[H]

דִּקְרָא – דְּאִית בָּהּ עֶצֶם, מַתְנִיתִין – דְּלֵית בָּהּ עֶצֶם; בְּעֵינוֹ – הֲוֵי מוּמָא, בְּגוּפָא – לָא הֲוֵי מוּמָא.

The Gemara elaborates: The wart mentioned **in the verse** and the mishna here is one **that has a bone,** whereas the wart addressed by **the mishna** there is one **that does not have a bone.** Consequently, if the wart is **in its eye, it is a blemish,** as stated in the verse and the mishna here, but if it is **on** its **body, it is not a blemish,** although the animal is disqualified from being sacrificed, in accordance with the ruling of the mishna there.

וְלֵית לָהּ עֶצֶם בְּגוּפָא פְּסוּלָה? הֲרֵי תְּלָתוּל בְּעַלְמָא הוּא, דְּתָנֵן, רַבִּי אֱלִיעֶזֶר אוֹמֵר: בַּעֲלֵי הַתִּילוּלִין פְּסוּלִין בָּאָדָם וּכְשֵׁירִין בַּבְּהֵמָה! אֶלָּא, אִידִי וְאִידִי בְּעֵינוֹ, וְלָא קַשְׁיָא, הָא – בַּשָּׂחוֹר, הָא – בַּלָּבָן.

The Gemara asks: **And** with regard to a wart that **does not have a bone** and is **on the body,** is the animal **disqualified** from being sacrificed? **It is merely hanging** flesh, **as we learned** in a mishna (45b) that **Rabbi Eliezer says:** With regard to those **with** flesh or skin that **hangs** from their body,[H] such a blemish **disqualifies a person, but with regard to** such **an animal,** it is **fit. Rather,** both **this** mishna here **and that** mishna there are referring to a wart **in the** animal's **eye, and** it is **not difficult,** as **this** mishna is referring to a wart **in the black** of the eye, the pupil, whereas **that** mishna is referring to a wart **in the white** of the eye.

וְהָא אֵין מוּמִין בַּלָּבָן! אֶלָּא, אִידִי וְאִידִי בַּלָּבָן, וְאָמַר רֵישׁ לָקִישׁ: לָא קַשְׁיָא, הָא – דְּאִית בָּהּ שֵׂעָר, הָא – דְּלֵית בָּהּ שֵׂעָר.

The Gemara asks: **But** it has been established that **there are no blemishes in the white** part of the eye, which indicates that the animal is not even disqualified from being sacrificed on the altar. **Rather,** both **this** statement that there are no blemishes in the white of the eye **and that** ruling of the mishna that a wart disqualifies the animal from being sacrificed are referring to a wart **in the white** part of the eye.[N] **And Reish Lakish says:** It is **not difficult; this** is referring to a wart **that has a hair,**[H] and therefore the animal is unfit for the altar, whereas **that** statement is referring to a case **where** the wart **does not have a hair.**[H] As for the mishna here, which rules that a wart is a full-fledged blemish, it is referring to a wart in the pupil of the eye, as explained.

״עֵינוֹ אַחַת גְּדוֹלָה״ וכו׳. תָּנָא: גְּדוֹלָה – כְּשֶׁל עֵגֶל, קְטַנָּה – כְּשֶׁל אַוָּוז.

§ The mishna teaches with regard to an animal where **one of its eyes** is **large** and one is small that this is a blemish. In this regard, it is **taught** in a *baraita*: When the mishna states the term **large,** it means the eye is as large **as** the eye **of a calf,** and when it states the term **small,** it means it is as small **as** that of **a goose.**[B]

NOTES

Rather both this and that are referring to a wart in the white of the eye – אֶלָּא אִידִי וְאִידִי בַּלָּבָן: *Tosafot* suggest a different version of the text: Both this and that are referring to a wart in the black part of the eye. Accordingly, any wart in the white of the eye, even one that has a hair, does not disqualify the animal from being sacrificed. The Rambam, though, apparently understands the Gemara based on the straightforward understanding of the standard text. Consequently, this answer indicates that the principle that there are no blemishes in the white of the eye does not apply to warts, and if the wart has a hair, not only is it disqualified from the altar, as stated in the mishna later on, but it is even considered a full-fledged blemish (see Radbaz).

BACKGROUND

Eye of a goose and a calf – עַיִן שֶׁל אַוָּוז וְעֵגֶל: The diameter of a goose's eye is about 12 mm, while that of a calf is roughly 32 mm.

HALAKHA

This is a wart that has a bone and that is a wart that does not have a bone – הָא דְּאִית בָּהּ עֶצֶם הָא דְּלֵית בָּהּ עֶצֶם: If a priest or an animal has a wart on the body and there is a bone inside it, it is a blemish, and that is the type of wart mentioned in the Torah (see Leviticus 22:22). If it does not contain a bone then it is not a blemish, even if it has hair growing from it (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:10; *Tur*, *Yoreh De'a* 309).

Those with flesh or skin that hangs from their body – בַּעֲלֵי הַתִּילוּלִין: If one's skin and flesh hang from his body, or if the moisture from his skin hangs from his body, he is unfit for Temple service. This blemish does not apply to animals. The *halakha* is in accordance with the opinion of Rabbi Elazar (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:15).

This is referring to a wart that has a hair – הָא דְּאִית בָּהּ שֵׂעָר: If in the white of the eye of an animal there is a wart that has hair, that is a blemish, in accordance with Reish Lakish's explanation of Rabbi Ḥanina ben Antigonus's opinion. If the wart is in the black of the eye, it is a blemish even if there is no hair (Mahari Kurkus; see *Beit Yosef* and *Baḥ*). The *Tur* writes, citing the Rosh, that a wart in the eye that has hair is a blemish, but if it does not have hair it is not a blemish. In this ruling, the *Tur* does not differentiate between the black and the white of the eye (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:2; *Tur*, *Yoreh De'a* 309).

That is referring to a case where the wart does not have a hair – הָא דְּלֵית בָּהּ שֵׂעָר: If an animal has a wart without hair in the white of its eye, it may not be sacrificed, as this is not the optimal manner of bringing an offering. Nevertheless it may not be redeemed; rather, it must be left to graze until it develops a blemish, in accordance with the opinion of Reish Lakish (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:8).

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"אָזְנוֹ אַחַת גְּדוֹלָה" וכו'. וְרַבָּנַן עַד כַּמָּה? תַּנְיָא, אֲחֵרִים אוֹמְרִים: אֲפִילּוּ אֵינָהּ לַשְּׁנִיָּה אֶלָּא כִּפּוֹל – כְּשֵׁירָה.

The mishna teaches: Or **one of its ears** is **large** and one is small, which is detectable by sight, but not if it is detectable only by being measured. Rabbi Yehuda says: An animal is blemished if with regard to its two testicles, one is as large as two of the other, but the Rabbis did not agree with his opinion. The Gemara asks: **And** according to **the Rabbis, how large** can the difference between the two testicles be without this discrepancy being considered a blemish? The Gemara answers that it **is taught** in a *baraita* that ***Aḥerim* say: Even** if **the second,** smaller testicle is **no** bigger **than a bean,**[N] the animal **is fit.**

מתני' זְנַב הָעֵגֶל שֶׁאֵינָהּ מַגַּעַת לָעֲרָקוֹב. אָמְרוּ חֲכָמִים: כָּל מַרְבִּית עֲגָלִים כֵּן, כָּל זְמַן שֶׁהֵן מְגַדְּלִין הֵן נִמְתָּחוֹת. אֵיזֶהוּ עֲרָקוֹב שֶׁאָמְרוּ? רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: בָּעֲרָקוֹב שֶׁבְּאֶמְצַע הַיָּרֵךְ.

MISHNA In the case of **the tail of a calf that does not reach the leg joint** [*la'arkov*],[HL] **the Sages said:** It is a blemish, because **all growth of calves** is in **this** manner:[N] **As long as they grow,** their tails **are extended** beneath the leg joint. **Which is the leg joint** about **which** the Sages **spoke? Rabbi Ḥanina ben Antigonus says:** They are referring **to** the **leg joint that is in the middle of the thigh.**

HALAKHA

The tail of a calf that does not reach the leg joint – זְנַב הָעֵגֶל שֶׁאֵינָהּ מַגַּעַת לָעֲרָקוֹב: If the tail of a calf is so short that it does not reach the upper joint that connects the knee to the thigh, that is a blemish. In addition, it is an unequivocal blemish for which one may slaughter a firstborn even in the present time when there are no experts in these matters. This ruling is not in accordance with the opinion of the Rambam, who does not list this condition as a blemish (*Tur*, *Yoreh De'a* 309).

LANGUAGE

Leg joint [*arkov*] – עֲרָקוֹב: This word, beginning with the letter *ayin*, is similar to a near homonym beginning with the letter *alef*: *Arkuva*, which means knee.

NOTES

Even if the second testicle is no bigger than a bean – אֲפִילּוּ אֵינָהּ לַשְּׁנִיָּה אֶלָּא כִּפּוֹל: The Rambam maintains that this statement does not refer to the size of the testicles, as might be inferred from the Gemara, but to the size of the ear. The *Tosefta* (4:7) explicitly states that this refers to the testicles.

The Sages said: All growth of calves is in this manner – אָמְרוּ חֲכָמִים כָּל מַרְבִּית עֲגָלִים כֵּן: Rashi explains that this statement of the Sages is cited in explanation of why this is a blemish, as indicated by the *Tosefta* (4:14). In other words, if the tail of a calf is not long enough to reach the leg joint, it is a blemish, as it is the manner of calves that their tails extend beneath the leg joint as they grow. By contrast, in the Rambam's Commentary on the Mishna the statement of the Sages is understood in the opposite manner: They disagree with the earlier ruling of the mishna and maintain that a short tail in a calf is not a blemish, as it will gradually grow. Based on this interpretation, the Rambam does not include this blemish in his list of blemishes (see *Beit Yosef*).

Perek **VI**
Daf **41** Amud **a**

גמ' תָּנָא: קֶפֶץ הָעֶלְיוֹן וְלֹא קֶפֶץ הַתַּחְתּוֹן, וּכְנֶגְדּוֹ בַּגָּמָל נִיכָּר.

GEMARA With regard to the case in the mishna of the tail of a calf that does not reach the leg joint, it is **taught** in a *baraita*: This leg joint is **the upper joint,** between the thighbone and the tibia, **and not the lower joint,** between the middle and lower bones. **And** with regard to this upper joint, **the corresponding** bone **in** the leg of **a camel is conspicuous,**[B] but in a calf it is not noticeable from the outside.

BACKGROUND

The corresponding bone in the leg of a camel is conspicuous – כְּנֶגְדּוֹ בַּגָּמָל נִיכָּר:



Dromedary

מתני' עַל אֵלּוּ מוּמִין שׁוֹחֲטִין אֶת הַבְּכוֹר, וּפְסוּלֵי הַמּוּקְדָּשִׁין נִפְדִּין עֲלֵיהֶן.

MISHNA **For these blemishes** enumerated in the previous *mishnayot*, **one slaughters the firstborn** outside the Temple **and disqualified consecrated** animals **may be redeemed on their account.**

גמ' הָא תּוּ לָמָּה לִי? הָא תְּנָא לֵיהּ רֵישָׁא: עַל אֵלּוּ מוּמִין שׁוֹחֲטִין אֶת הַבְּכוֹר! סֵיפָא אִיצְטְרִיכָא: פְּסוּלֵי הַמּוּקְדָּשִׁין נִפְדִּין עֲלֵיהֶן. הָא נָמֵי פְּשִׁיטָא! מִישְׁחַט שָׁחֲטִינַן, מִיפְּרַק מִיבָּעֵיָא?

GEMARA The Gemara asks: **Why do I** need **this additional** statement that for these blemishes one slaughters the firstborn outside the Temple? It was already **taught** in **the first clause,** at the beginning of the chapter: **For these blemishes, one may slaughter the firstborn** animal outside the Temple. The Gemara answers that **the latter clause** of the mishna was **necessary: Disqualified consecrated** animals **may be redeemed due to** these blemishes. The Gemara asks: But **this too** is **obvious;** if **one may slaughter** a firstborn due to these blemishes, **is** it **necessary** to state that **one may redeem them?**

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אֶלָּא, אַייְדֵי דְּתָנָא: שְׁלֹשָׁה הוֹסִיף, וְאָמְרוּ לוֹ: לֹא שָׁמַעְנוּ אֶת אֵלּוּ; וְקָתָנֵי וְאָתֵי דִּיחִידָאָה. וְקָא סָתֵים לָהּ בְּכוּלְּהוּ: עַל אֵלּוּ מוּמִין שׁוֹחֲטִין אֶת הַבְּכוֹר וּפְסוּלֵי הַמּוּקְדָּשִׁין נִפְדִּין עֲלֵיהֶן.

Rather, since a previous mishna **taught** that Ila **added three** additional blemishes, **and** the Sages **said to him: We did not hear** about **those, and** then the *tanna* of the mishna **proceeded to teach** *halakhot* in the name **of individual** opinions, those of Rabbi Ḥananya ben Gamliel and Rabbi Ḥanina ben Antigonus, one might have thought that the *halakha* is not in accordance with their rulings. Therefore, he states **an unattributed** ruling in this mishna **with regard to all their** statements: **For** all **these blemishes** enumerated in the previous *mishnayot*, **one slaughters the firstborn, and disqualified consecrated** animals **may be redeemed due to them.** This indicates that the *halakha* is in accordance with all of these individual opinions.

מתני׳ וְאֵלּוּ שֶׁאֵין שׁוֹחֲטִין עֲלֵיהֶן לֹא בַּמִּקְדָּשׁ וְלֹא בַּמְּדִינָה: חֲוָורוֹר וְהַמַּיִם שֶׁאֵין קְבוּעִין, וְחוּטִין הַפְּנִימִיּוֹת שֶׁנִּפְגְּמוּ אֲבָל לֹא שֶׁנֶּעֱקְרוּ, וּבַעַל גָּרָב וּבַעַל יַבֶּלֶת וּבַעַל חֲזָזִית, זָקֵן וְחוֹלֶה וּמְוּזָהָם, וְשֶׁנֶּעֶבְדָה בּוֹ עֲבֵירָה, וְשֶׁהֵמִית אָדָם, עַל פִּי עֵד אֶחָד אוֹ עַל פִּי הַבְּעָלִים.

MISHNA **And these** are the blemishes **that one does not slaughter** the firstborn **due to them, neither in the Temple nor in** the rest of **the country: Pale spots** on the eye **and tears** streaming from the eye **that are not constant;**[H] **and internal gums that were damaged**[H] **but that were not extracted;**[N] **and** an animal **with boils** that are moist inside and out [***garav***]**; and** an animal **with warts;**[H] **and** an animal **with boils** [***ḥazazit***]**;**[H] and **an old**[N] **or sick** animal, **or** one with **a foul odor;**[H] **and** one **with which a transgression was performed,**[H] e.g., it copulated with a person or was the object of bestiality; **and** one **that killed a person.** In these latter two cases, the act of bestiality or killing became known **on the basis** of the testimony **of one witness or on the basis of the owner.**

וְטוּמְטוּם וְאַנְדְּרוֹגִינוֹס, לֹא בַּמִּקְדָּשׁ וְלֹא בַּמְּדִינָה. רַבִּי שִׁמְעוֹן אוֹמֵר: אֵין לְךָ מוּם גָּדוֹל מִזֶּה. וַחֲכָמִים אוֹמְרִים: אֵינוֹ בְּכוֹר, אֶלָּא נִגָּזּוּ וְנֶעֱבָד.

And one does not slaughter a ***tumtum,***[LH] whose sexual organs are concealed, **and a hermaphrodite** [***ve'anderoginos***]**,**[LBH] which has both male and female sexual organs, **neither in the Temple nor in** the rest of **the country. Rabbi Shimon says: You have no blemish greater than that,** and it may be slaughtered. **And the Rabbis say:** The halakhic status of a hermaphrodite **is not** that of **a firstborn; rather,** its halakhic status is that of a non-sacred animal that may **be shorn and utilized for labor.**

NOTES

Internal gums that were damaged but that were not extracted – חוּטִין הַפְּנִימִיּוֹת שֶׁנִּפְגְּמוּ אֲבָל לֹא שֶׁנֶּעֱקְרוּ: Although this animal may not be redeemed, it is prohibited to sacrifice it if its internal gums were damaged or scratched, since sacrificing it is not the optimal manner of performing the mitzva, as the Torah states (Deuteronomy 12:11): "Your choice vows" (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:8). The Rambam adds that it appears to him that if such an animal was sacrificed, its owner has fulfilled his obligation after the fact. Some commentaries infer from this statement that according to the Rambam these disqualifications apply by rabbinic law, not Torah law (*Mirkevet HaMishne*; *Ḥazon Ish*).

An old animal – זָקֵן: The Gemara indicates that any animal that appears weak due to its age is classified as old. Based on the Gemara in tractate *Ḥullin* 24b, which discusses blemishes of priests, the Rambam writes that an animal that trembles and shakes when standing is defined as old. See the mishna in *Para* (1:2) that records a dispute between *tanna'im* with regard to the *halakha* of old animals. According to Rabbi Meir, such animals are actually fit, as doing so would be disrespectful to the Temple service (see Rambam's Commentary on the Mishna there, and *Mishne LaMelekh* to Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:6).

LANGUAGE

***Tumtum* – טוּמְטוּם:** This word comes from the root *tet*, *mem*, *mem*, meaning closed, i.e., the genitalia are closed and unknown. It refers to a person or animal born in a state where its external genitalia cannot be discerned. It has neither male nor female genitalia, but simply a kind of fissure in the skin. Occasionally, it becomes apparent later in life whether this individual is a male or female.

Hermaphrodite [*anderoginos*] – אַנְדְּרוֹגִינוֹס: From the Greek *ἀνδρόγυνος*, *androgunos*, a composite expression meaning man-woman whose English translation is the term androgynous.

BACKGROUND

Hermaphrodite – אַנְדְּרוֹגִינוֹס: Modern medicine distinguishes between two different kinds of hermaphrodite: The more common pseudo-hermaphrodite, who merely appears to be a hermaphrodite, and a true hermaphrodite. A true hermaphrodite has both male and female sex glands, i.e., testicles and ovaries. A pseudo-hermaphrodite, by contrast, has the sex glands of only a single sex but has the external sex organs of both genders.

Due to this double identity, a hermaphrodite cannot be regarded as either male or female, unlike a *tumtum* whose sex, due to a developmental defect, simply is not known. Therefore, the Sages regarded a hermaphrodite as a third sex who does not belong to either sex.

HALAKHA

Pale spots on the eye and tears streaming from the eye that are not constant – חֲוָורוֹר וְהַמַּיִם שֶׁאֵין קְבוּעִין: If an animal had a flow of water from its eye that was not constant, or blindness that was not constant, these are considered temporary blemishes. Therefore, it may not be sacrificed but may not be redeemed either (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:6–7).

Internal gums that were damaged – חוּטִין הַפְּנִימִיּוֹת שֶׁנִּפְגְּמוּ: If the internal gums of an animal were damaged or scratched it may not be sacrificed, since bringing this animal is not the optimal manner of performing the mitzva, as required by the verse: "Your choice vows" (Deuteronomy 12:11). Rather, it must graze until it develops a blemish. If the internal gums were extracted, it is considered a blemish, as when the animal opens its mouth and cries out the absence is visible (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:8, 3).

An animal with warts – בַּעַל יַבֶּלֶת: If an animal has a wart without hair in the white of its eye, it may not be sacrificed, as sacrificing it is not the optimal manner of performing the mitzva. It may not be redeemed but must be left to graze until it develops a blemish. This ruling is in accordance with the Gemara's explanation (40b) of the mishna (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:8).

An animal with boils that are moist inside and out [*garav*]… and one with boils [*ḥazazit*] – בַּעַל גָּרָב וּבַעַל חֲזָזִית: If an animal had a *garav*, a boil that is moist inside and out (*Kesef Mishne*), or a *ḥazazit*, apart from an Egyptian *ḥazazit*, these are temporary blemishes, and the animal may not be sacrificed but may not be redeemed either (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:6–7).

An old or sick animal or one with a foul odor – זָקֵן וְחוֹלֶה וּמְוּזָהָם: An old animal, i.e., one old enough that it trembles and shakes when standing, a sick animal that trembles due to its sickness and weakness, and an animal with a foul odor are all disqualified from the altar, but they may not be redeemed (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:6 and *Hilkhot Biat HaMikdash* 7:12–13).

One with which a transgression was performed – נֶעֱבְדָה בּוֹ עֲבֵירָה: If either one witness or the owner of a sacrificial animal testifies that a transgression, i.e., bestiality, was performed with that animal, or that the animal killed a person, it may not be sacrificed upon the altar. It may not be redeemed until it develops a permanent blemish (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:9).

***Tumtum* – טוּמְטוּם:** If a firstborn animal was a *tumtum*, it is uncertain whether it has the status of a firstborn, and therefore it may be eaten by its owner when it develops a blemish. This *halakha* is in accordance with the opinion of Rav Ḥisda on 41b (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:5, and see *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:3; *Shulḥan Arukh*, *Yoreh De'a* 315:2).

Hermaphrodite – אַנְדְּרוֹגִינוֹס: The Rambam writes: If a firstborn animal is a hermaphrodite, it has no sanctity at all but is like a female animal, to which the priest is not entitled. Therefore, it may be put to work and sheared like any other non-consecrated animal. This *halakha* is in accordance with the opinion of the Rabbis, as explained by the Gemara. The *Shulḥan Arukh* writes: A hermaphrodite's status as a firstborn is uncertain, and therefore it may be eaten by its owners when it develops a blemish, in accordance with the opinion of the first *tanna* (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:5, and see *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:3; *Shulḥan Arukh*, *Yoreh De'a* 315:2–3).

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גמ׳ וְגָרָב לָא? וְהָכְתִיב גָּרָב בְּאוֹרֵייתָא! וַחֲזָיִית לָא? וְהָכְתִיב יַלֶּפֶת בְּאוֹרֵייתָא; וְתַנְיָא: ״גָּרָב״ – זֶה הַחֶרֶס, ״יַלֶּפֶת״ – זוֹ חֲזָיִית הַמִּצְרִית; וְאָמַר רֵישׁ לָקִישׁ: לָמָּה נִקְרָא שְׁמָהּ ״יַלֶּפֶת״ – שֶׁמְּלַפֶּפֶת וְהוֹלֶכֶת עַד יוֹם הַמִּיתָה!

GEMARA The mishna teaches that the two types of boils: *Garav* and *ḥazazit*, are not considered full-fledged blemishes for which one may slaughter a firstborn outside the Temple. The Gemara asks: **And is *garav* not** considered a blemish? **But isn't it written "*garav*" in the Torah,** in the list of blemishes (see Leviticus 22:22)? **And** furthermore, **is *ḥazazit* not** considered a blemish? **But isn't it written "*yalefet*" in the Torah,** in the same verse, **and it is taught** in a *baraita*: **"*Garav*"; this is** referring to boils that are hard as **earthenware** [*ḥeres*]; **"*yalefet*"; this is the *ḥazazit*** that affected **the Egyptians** (see Exodus 9:10). **And Reish Lakish says: Why is it called *yalefet*?** The reason is **that it grabs** [*melapefet*] **continuously** onto an invalid **until the day of death,** i.e., it cannot be healed.

בִּשְׁלָמָא חֲזָיִית אַחֲזָיִית לָא קַשְׁיָא, כָּאן – בַּחֲזָיִית הַמִּצְרִית, כָּאן – בַּחֲזָיִית דְּעָלְמָא. אֶלָּא גָּרָב אַגָּרָב קַשְׁיָא! גָּרָב אַגָּרָב נַמִּי לָא קַשְׁיָא, הָא – בְּלַח, הָא – בְּיָבֵשׁ; לַח – אִיתַּסּוֹי, יָבֵשׁ – לָא מִיתַּסֵּי.

Granted, the contradiction **between** the status of **the *ḥazazit*** mentioned in the Torah and that of **the *ḥazazit*** in the mishna is **not difficult,** as **here** the Torah is referring **to an Egyptian *ḥazazit*,** and **there** the mishna is referring **to a regular *ḥazazit*.**[H] **But** the contradiction **between** the status of **the *garav*** listed in the Torah and **the *garav*** of the mishna is **difficult.** The Gemara answers that the contradiction **between the *garav*** in the Torah and **the *garav*** in the mishna is **also not difficult: This** ruling of the mishna is referring **to moist** boils, whereas **that** *garav* of the Torah is referring **to dry** boils. **Moist** boils will **heal** and therefore are considered a temporary blemish for which one may not slaughter a firstborn; **dry** ones will **not heal.**

וְלַח מִיתַּסֵּי? וְהָכְתִיב: ״יַכְּכָה ה׳ בִּשְׁחִין מִצְרַיִם״ וגו׳, וּמִדִּכְתִיב ״וּבֶחָרֶס״ – הֲרֵי גָּרָב לַח אָמוּר; וְקָאָמַר: ״אֲשֶׁר לֹא תוּכַל לְהֵרָפֵא״!

The Gemara asks: **And** does **a moist** boil **heal? But isn't it written: "The Lord will smite you with the boil of Egypt,** and with the hemorrhoids, and with *garav*, and with *ḥares*, from which you cannot be healed" (Deuteronomy 28:27). **And since it is written: "And with *ḥares*,"** which is referring to boils that are as hard as earthenware [*ḥeres*], **moist *garav* is** thereby **stated, and** with regard to both types that verse **states: "From which you cannot be healed."**

אֶלָּא, תִּלָּתָא הָווּ: דְּקָרָא – יָבֵשׁ בֵּין מִבִּפְנִים בֵּין מִבַּחוּץ, דְּמַתְנִיתִין – לַח מִבַּחוּץ וּמִבִּפְנִים, דְּמִצְרַיִם – יָבֵשׁ מִבִּפְנִים וְלַח מִבַּחוּץ, דִּכְתִיב: ״וַיְהִי שְׁחִין פֹּרֵחַ אֲבַעְבֻּעֹת בָּאָדָם״.

Rather, there are three types of *garav*:[H] First, the *garav* **of the verse** that deals with blemishes, which is **dry both on the inside and on the outside.** This cannot be healed, and it is called *ḥares* in Deuteronomy. The second is the *garav* **of the mishna,** which can be healed, and is **moist on the outside and inside.** Third, the *garav* **of Egypt,** mentioned in Deuteronomy as one of the types of boils of Egypt. This *garav* is **dry on the inside** and therefore cannot be healed, **but** it **is moist on the outside, as it is written** with regard to the plague of boils in Egypt: **"And it became a boil breaking forth with *avabu'ot* upon man** and upon animal" (Exodus 9:10). *Avabu'ot* is referring to a substance that pours out [*nove'a*] and is moist.

״וְהָזָקֵן וְהַחוֹלֶה וְהַמְטוּלָּם״. מְנָלַן מִילֵּי? דְּתָנוּ רַבָּנַן: ״מִן הַצֹּאן וּמִן הַכְּשָׂבִים וּמִן הָעִזִּים״ – פָּרַט לַזָּקֵן וְלַחוֹלֶה וְלַמְטוּלָּם.

§ Among the conditions that are not considered full-fledged blemishes, but one may not sacrifice an animal with one such condition as an offering either, the mishna lists: **And an old** animal, **or a sick** animal, **or** one with **a foul odor.** The Gemara asks: **From where are these matters** derived? They are derived from a verse, **as the Sages taught:** The verse states: "And if his offering be **from** [***min***] **the flock, whether from the sheep or from the goats"** (Leviticus 1:10). These three instances of the word "from [*min*]" serve to **exclude the old, and the sick, and the** animal with **a foul odor,** which may not be sacrificed.

HALAKHA

כָּאן בַּחֲזָיִית הַמִּצְרִית כָּאן – בַּחֲזָיִית דְּעָלְמָא: Here the Torah is referring to an Egyptian *ḥazazit* and there the mishna is referring to a regular *ḥazazit* – If one has any form of an Egyptian *ḥazazit*, which is a harsh, ugly *ḥazazit*, this is a blemish, and this is the *yalepet* mentioned in the Torah. A regular, non-Egyptian *ḥazazit* is a temporary blemish (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:10 and *Hilkhot Issurei Mizbe'aḥ* 2:7).

אֶלָּא תִּלָּתָא הָווּ: Rather there are three types of *garav* – If one has *garav* that is dry in any form, that is a blemish, and it is the *garav* mentioned in the Torah. *Garav* that is moist, both inside and out (*Kesef Mishne*), is a temporary blemish (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:10 and *Hilkhot Issurei Mizbe'aḥ* 2:7).

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וּצְרִיכִי, דְּאִי כְּתַב רַחֲמָנָא לְמַעוּטֵי זָקֵן – דְּלָא הֲדַר בָּרִיא, אֲבָל חוֹלֶה דַּהֲדַר בָּרִיא – אֵימָא לָא; וְאִי כְּתַב לְמַעוּטֵי חוֹלֶה – דְּלָאו אוֹרְחֵיהּ, אֲבָל זָקֵן דְּהַיְינוּ אוֹרְחֵיהּ – אֵימָא לָא;

The Gemara notes: **And** all three exclusions **are necessary. As, had the Merciful One written** the word "from" once, one might have said that this serves **to exclude an old** animal, **which will not become healthy again,** as it will never get younger. **But** with regard to a **sick** animal, **which** might **become healthy again, say** that it is **not** disqualified. **And,** alternatively, **had** the Merciful One **written** only one term of exclusion, one might have said that it serves **to exclude a sick** animal, **as** it is **not the** natural **manner** of an animal to be sick. **But** with regard to **an old** animal, **as this is the** natural **manner** of all animals to grow old, **say** that it should **not** be disqualified from the altar.

וְאִי כְּתַב רַחֲמָנָא תְּרֵי – לְמַעוּטֵי תָּנֵי דְּכִחֲישִׁי, אֲבָל מְזוֹהָם דְּלָא כְּחִישׁ – אֵימָא לָא; וְאִי נַמִי לְמַעוּטֵי מְזוֹהָם – מְשׁוּם דְּמְאִיס, אֲבָל תָּנֵי דְּלָא מְאִיסִי – אֵימָא לָא, צְרִיכִי.

And had the Merciful One written only **two** terms of exclusion, one might have said that they serve **to exclude these weak** animals, the sick and the old, as one should sacrifice only a fat, healthy animal. **But** with regard to an animal with **a foul odor, which is not weak, say** that it should **not** be disqualified. **And alternatively,** had there been only one term of exclusion, one might have said that it serves **to exclude** an animal with **a foul odor, as** it is **repulsive. But** with regard to **these** other two cases of an old and a sick animal, **which are not repulsive, say** that they are **not** excluded. Therefore, all three exclusions **are necessary.**

§ "וְשָׁנָּעֲבְדָה בּוֹ עֲבֵירָה" וכו'. מְנָא הָנֵי מִילֵּי?

§ The mishna teaches: **And** an animal **with which a transgression was performed,** and one that killed a person that was known on the basis of the testimony of one witness or the owner, are disqualified from being sacrificed. The Gemara asks: **From where are these matters** derived?

דְּתָנוּ רַבָּנַן "מִן הַבְּהֵמָה" – לְהוֹצִיא רוֹבֵעַ וְנִרְבָּע, "מִן הַבָּקָר" – לְהוֹצִיא אֶת הַנֶּעֱבָד, "מִן הַצֹּאן" – לְהוֹצִיא אֶת הַמּוּקְצֶה, "וּמִן הַצֹּאן" – לְהוֹצִיא אֶת הַנּוֹגֵחַ.

They are derived from a verse, **as the Sages taught** in a *baraita* that when the verse states: "You shall bring your offering from the cattle, even from the herd or from the flock" (Leviticus 1:2), each mention of the word "from" is interpreted as a term of exclusion. The expression "**from the cattle**" serves **to exclude an animal that copulated with a person and an animal that was the object of bestiality.** The expression "**from the herd**" serves **to exclude** an animal **worshipped** as a deity, and "**from the flock**" serves **to exclude** an animal **set aside** for idol worship. Finally, the word "or" in the expression "**or from the flock**" serves **to exclude** an animal that **gored** and killed a person.

הָנֵי בְּנֵי קְטָלָא נִינְהוּ! עַל פִּי עֵד אֶחָד אוֹ עַל פִּי הַבְּעָלִים.

The Gemara challenges: In **these** cases of an animal that copulated with a person, an animal that was the subject of bestiality, and an animal that gored and killed a person, **they are liable to death** by stoning. Why, then, is a verse necessary to exclude them? The Gemara answers that this is referring to a case where the incident was known **on the basis** of the testimony **of one witness or on the basis of the owner.** Therefore, the animal is not killed, as there are not two witnesses to the event, but the testimony is sufficient to disqualify the animal as a sacrifice.

§ בִּשְׁלָמָא טוּמְטוּם, בַּמִּקְדָּשׁ לָא – דִּילְמָא נְקֵבָה הִיא, בַּמְּדִינָה לָא – דִּילְמָא זָכָר הוּא, וְלֵית בָּהּ מוּמָא.

§ The mishna teaches that one does not slaughter a *tumtum* and a hermaphrodite, neither in the Temple nor in the rest of the country. The Gemara asks: **Granted,** one does not slaughter **a *tumtum*, neither in the Temple,** as **perhaps it is a female** and therefore does not have firstborn status and may not be sacrificed, **nor in** the rest of **the country,** as **perhaps it is a male and it does not have a blemish,** in which case he would be slaughtering a sacrificial animal.

אֶלָּא אַנְדְּרוֹגִינוֹס, בִּשְׁלָמָא בַּמִּקְדָּשׁ לָא – דִּילְמָא נְקֵבָה הִיא. אֶלָּא בַּמְּדִינָה, נַמִי נֵיהֵי דְּזָכָר הוּא – תֵּעָשֶׂה נְקֵבוּת חָרִיץ, וְיִשְׁחוֹט עָלָהּ!

But in the case of **a hermaphrodite, granted** that one does **not** slaughter it **in the Temple,** as **perhaps it is a female. But with regard to** the rest of **the country, even let it be** considered **a male;** nevertheless, its **female** sex organ **should be considered** as **a crack** [*ḥaritz*], which is included in the blemish of "cracked" [*ḥarutz*] listed in the Torah (Leviticus 22:22), **and** let **one slaughter** it **due to** that blemish.

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אֲמַר אַבַּיֵי: אָמַר קְרָא ״אוֹ חָרוּץ אוֹ שָׁבוּר״ – חָרוּץ דּוּמְיָא דְּשָׁבוּר, מַה שָּׁבוּר בִּמְקוֹם עֶצֶם, אַף חָרוּץ בִּמְקוֹם עֶצֶם.

Abaye said in response: **The verse states: "Or cracked or broken"** (Leviticus 22:22), which teaches that the blemish of being **cracked is similar to** that of being **broken: Just as** the blemish of being **broken** is relevant **in the location of a bone,** as there is no break where there is only flesh, **so too,** the term **cracked** is referring to a blemish found **in the location of a bone,**[H] not in the location of the sex organs.

רָבָא אָמַר: בְּלָא שָׁבוּר נַמִּי לָא מָצֵית אָמְרַתְּ חָרוּץ בִּמְקוֹם בָּשָׂר הֲוֵי מוּמָא. דְּאִי סָלְקָא דַּעְתָּךְ הֲוֵי מוּמָא; כֵּיוָן דְּאָמַר: ״גָּרָב״ וְהוּ חֶרֶס – מִיחֲרַץ חֲרִיץ, דִּכְתִיב: ״וּמַרְאֵהוּ עָמֹק מִן הָעוֹר״, כְּמַרְאֵה חַמָּה הָעֲמוּקָה מִן הַצֵּל;

Rava said: Even **without** the comparison to **"broken," you cannot say that a crack in the location of flesh,** where there is no bone, **is a blemish. As, if** it would **enter your mind** that **it is a blemish, since** the *tanna* of the *baraita* cited above **said** with regard to ***"garav"*** that **this is** referring to boils that are hard as **earthenware** [*ḥeres*], evidently this blemish is **a crack** in the skin, **as it is written** with regard to the skin disease of leprosy: **"And its appearance is deeper than the skin"** (Leviticus 13:30), and the Sages explained: **It is similar to the appearance of** an area lit by the **sun that** seems **deeper than the shade,**[N] which appears to cover it.

וְלִיכְתּוֹב רַחֲמָנָא חָרוּץ וְלָא בָּעֵי גָּרָב, וְאָמִינָא: חָרוּץ דְּלָא מְאִיס – הֲוֵי מוּמָא, גָּרָב דְּמְאִיס – לָא כָּל שֶׁכֵּן? כְּתַב רַחֲמָנָא גָּרָב, לְמֵימַר דְּחָרוּץ בִּמְקוֹם בָּשָׂר לָא הֲוֵי מוּמָא.

And if so, **let the Merciful One write: Crack, and** it would **not need** to state ***garav*, and I** would **say:** If being **cracked, which is not repulsive, is a blemish,** then with regard to ***garav*, which is repulsive,** should it **not all the more so** be considered a blemish? Therefore, **the Merciful One writes *garav*, to say that a crack** found **in the location of flesh is not a blemish.** Consequently, one cannot say that the female sex organ of a hermaphrodite should be considered a blemish for which one may slaughter a firstborn outside the Temple.

״רַבִּי יִשְׁמָעֵאל אוֹמֵר: אֵין לְךָ מוּם גָּדוֹל מִזֶּה״. כְּאַבַּיֵי לָא אָמַר – חָרוּץ דּוּמְיָא דְּשָׁבוּר לָא אָמְרִינַן,

In this connection, the Gemara cites the statement of the mishna with regard to a hermaphrodite: **Rabbi Yishmael says: You have no blemish greater than that,**[N] and it may be slaughtered. Evidently, Rabbi Yishmael maintains that the female sex organ of a hermaphrodite is considered a blemish. The Gemara explains: Rabbi Yishmael does **not state** a ruling **like** that of **Abaye,** as he maintains that **we do not say** that the blemish of being **cracked is similar to** that of being **broken.** Rather, they are entirely different blemishes, and a crack found on flesh is considered a blemish.

כְּרָבָא נַמִּי לָא אָמַר – דִּילְמָא הֵיכָא דְּלָא מִינְכְּרָא, אֲבָל הֵיכָא דְּמִינְכָּר – ״מוּם רָע״ קָרֵינָא בֵּיהּ.

Rabbi Yishmael **also** does **not state** a ruling **like** that of **Rava,** as **perhaps** his conclusion that a crack found where there is no bone is not a blemish applies only in a case **where it is not conspicuous. But** in a case **where it is conspicuous,** such as the female sex organ, **we call it "an ill blemish"** (Deuteronomy 15:21), and the animal is disqualified for use as an offering.

HALAKHA

The term cracked is referring to a blemish in the location of a bone – חָרוּץ בִּמְקוֹם עֶצֶם: With regard to any visible bone in which there is a crack, that is a blemish, and it is included in the *ḥarutz* stated in the Torah (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:11).

NOTES

That seems deeper than the shade – הָעֲמוּקָה מִן הַצֵּל: The statement of Rava is ostensibly difficult, as he is attempting to prove that a crack is not a blemish, and he cites the case of leprosy, where, as noted in *Torat Kohanim*, the mark only appears to be deeper than the skin, but the skin is not in fact cracked. The Griz, citing Rashi on 43a, suggests that the leprous mark does actually include cracked skin. The cracked skin is covered by a scab, which itself has the appearance of being deeper than the skin (see *Ḥazon Ish* and *Ḥazon Naḥum*).

Rabbi Yishmael says: You have no blemish greater than that – רַבִּי יִשְׁמָעֵאל אוֹמֵר אֵין לְךָ מוּם גָּדוֹל מִזֶּה: This is another instance where, as previously (40b), the Gemara cites an opinion from the mishna in a manner different from the standard text of the mishna itself. In this case, Rabbi Shimon, not Rabbi Yishmael, is cited in the mishna as stating this principle. Some suggest that the mishna should be emended to read: Rabbi Yishmael (*Masoret HaShas*).

Perek **VI**
Daf **41** Amud **b**

בָּעֵי רָבָא: מַאי טַעְמָא דְּרַבִּי יִשְׁמָעֵאל? מִיפְּשַׁט פְּשִׁיטָא לֵיהּ: אַנְדְּרוֹגִינוֹס – בְּכוֹר הוּא וּמוּמוֹ עִמּוֹ. אוֹ דִּילְמָא סַפּוּקֵי מִסַּפְקָא לֵיהּ, וְ״אִם תִּימָצֵא לוֹמַר״ קָאָמַר: אִם תִּימָצֵא לוֹמַר בְּכוֹר הוּא – הֲרֵי מוּמוֹ עִמּוֹ.

Rava raises a dilemma: What is the reason of Rabbi Yishmael that a hermaphrodite is definitely blemished? Is it **obvious to him** that **a hermaphrodite** animal **is** a male that has **firstborn** status, **and** it comes **with its blemish,** i.e., the female sex organ, and therefore it is permitted to slaughter it outside the Temple? **Or perhaps** Rabbi Yishmael **is uncertain**[N] whether or not a hermaphrodite is considered a male, **and he says** his ruling in the manner of: **If you say.** In other words, **if you say** that a hermaphrodite animal **is a firstborn,** it comes **with its blemish,** and it may be slaughtered outside the Temple.

NOTES

Rabbi Yishmael is uncertain – סַפּוּקֵי מִסַּפְקָא לֵיהּ: Rashi explains this possibility to mean that he is uncertain, like the first *tanna*, whether or not a hermaphrodite is a male or a female. Others explain that he is uncertain whether it is a male or a distinct entity (Rabbeinu Gershom Meor HaGola).

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לְמַאי נַפְקָא מִינָּה – לְמִילְקָא עֲלֵיהּ מִשּׁוּם גִּיזָּה וַעֲבוֹדָה. אִי נַמִּי, לְמֵיתְבֵיהּ לְכֹהֵן.

The Gemara asks: **What is the** practical **difference** between the reasons? The Gemara answers that there is a difference with regard **to being flogged on account of** this animal **due to** violating the prohibition of **shearing and** utilizing a firstborn animal for **labor** (see Deuteronomy 15:19). If it is definitely a firstborn, then one would be flogged for violating the prohibition. But if one is uncertain whether it is a firstborn, although one may not shear it or perform labor with it, one is not liable to flogging for doing so. **Alternatively,** there is a difference with regard **to giving it to a priest.** If its status is uncertain, the priest cannot demand the animal from him, in accordance with the principle that the burden of proof rests upon the claimant.

תָּא שְׁמַע, רַבִּי אִילְעַאי אוֹמֵר מִשּׁוּם רַבִּי יִשְׁמָעֵאל: אַנְדְּרוֹגִינוֹס בְּכוֹר הוּא וּמוּמוֹ עִמּוֹ; שְׁמַע מִינָּהּ: מִיפְּשַׁט פְּשִׁיטָא לֵיהּ. וְדִילְמָא ״אִם תִּימְצָא לוֹמַר״ קָאָמַר!

The Gemara suggests: **Come** and **hear** a *baraita*: **Rabbi Ilai says in the name of Rabbi Yishmael: A hermaphrodite is a firstborn, and** it comes **with its blemish. Learn from** the *baraita* that it is **obvious to Rabbi Yishmael** that a hermaphrodite is a firstborn. The Gemara responds: **But perhaps he said** his ruling in the manner of: **If you say,** as explained earlier.

תָּא שְׁמַע: ״זָכָר״ – וְלֹא נְקֵבָה. כְּשֶׁהוּא אוֹמֵר לְמַטָּה ״זָכָר״ – שֶׁאֵין תַּלְמוּד לוֹמַר; מַה תַּלְמוּד לוֹמַר – לְהוֹצִיא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס.

The Gemara suggests: **Come** and **hear** another *baraita*. It states with regard to a burnt offering from cattle: **"A male"** (Leviticus 1:3), from which it can be inferred: **But not a female.**[H] **When it says below,** with regard to a burnt offering from sheep: **"A male"** (Leviticus 1:10), a second time, it is difficult to understand, **as** there is **no** need for **the verse to state** this. **Why** must **the verse state** "a male" again? This serves **to exclude a *tumtum* and a hermaphrodite,** which are disqualified from being sacrificed as burnt offerings.

מַנִּי? אִילֵימָא תַּנָּא קַמָּא – סְפֵיקָא הוּא, וְאָתֵי קְרָא לְמַעוּטֵי סְפֵיקָא?

The Gemara analyzes this *baraita*: **Whose** opinion is this? **If we say** it is the opinion of **the first *tanna*** of the mishna, who maintains that a *tumtum* and a hermaphrodite may not be slaughtered in the Temple or in the rest of the country, then the status of a hermaphrodite **is uncertain,** as it is unknown whether it is male or female. **But** does **a verse come to exclude** a case of **uncertainty?**[N]

אֶלָּא רַבָּנַן בַּתְרָאֵי – מֵחַד קְרָא נָפְקִי, דְּהָא גַּבֵּי בְּכוֹר חַד ״זָכָר״ הוּא דִּכְתִיב, קָא מַעֲטֵי כּוּלְּהוּ מִינַּייהוּ!

Rather, perhaps this *baraita* is in accordance with the opinion of **the latter Rabbis** in the mishna, who hold that a hermaphrodite is definitely not a male, but a distinct entity. Therefore, it is necessary for a verse to exclude it. This, too, is difficult, as according to these Rabbis the exclusion of a female, a *tumtum*, and a hermaphrodite is **derived from one verse** alone. The Gemara elaborates: **As with regard to a firstborn, it is one "male" alone that is written,** from which the Rabbis **exclude all** of the three categories **from** firstborn status. By contrast, the *baraita* excludes a female from one mention of the word "male" and a *tumtum* and a hermaphrodite from another mention of the word "male."

אֶלָּא פְּשִׁיטָא רַבִּי יִשְׁמָעֵאל. וְאִי אָמְרַתְּ בְּשִׁלָּמָא רַבִּי יִשְׁמָעֵאל מִיפְּשַׁט פְּשִׁיטָא לֵיהּ – הַיְינוּ דְּאִיצְטְרִיךְ קְרָא לְמַעוּטֵי, אֶלָּא אִי אָמְרַתְּ מִסְּפְקָא לֵיהּ – אִצְטְרִיךְ קְרָא לְמַעוּטֵי סְפֵיקָא?

Rather, it is **obvious** that the *baraita* is in accordance with the opinion of **Rabbi Yishmael. And** in that case, **granted, if you say** that it is **obvious to Rabbi Yishmael** that a hermaphrodite is a firstborn male, **that is** why **a verse was necessary to exclude** a hermaphrodite[N] from being brought as a burnt offering. **But if you say** that Rabbi Yishmael **is uncertain** whether or not a hermaphrodite is considered a male, is it **necessary** for **the verse to exclude** a case of **uncertainty?**

HALAKHA

A male but not a female – זָכָר וְלֹא נְקֵבָה: All burnt offerings must be male, as stated in the *baraita* (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 1:8).

NOTES

But does a verse come to exclude a case of uncertainty – וְאָתֵי קְרָא לְמַעוּטֵי סְפֵיקָא: Rashi explains: Since there is no uncertainty before God with regard to its status, a verse is not warranted to rule on its status simply due to human uncertainty.

That is why a verse was necessary to exclude a hermaphrodite – הַיְינוּ דְּאִיצְטְרִיךְ קְרָא לְמַעוּטֵי: Some commentaries explain that this exclusion is necessary to teach that a hermaphrodite differs from a regular blemished animal: If a regular blemished animal is substituted for a sacrificial animal, it is consecrated, whereas a hermaphrodite does not become a substitute (attributed to Rabbeinu Yitzḥak; see *Shita Mekubbetzet*).

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לְעוֹלָם רַבָּנַן בַּתְרָאֵי, וְגַבֵּי בְּכוֹר תְּרֵתֵי קְרָאֵי כְּתִיב: ״הַזָּכָר״ וְ״הַזְּכָרִים״.

The Gemara responds: **Actually,** the *baraita* is in accordance with the opinion of **the latter Rabbis,** who maintain that a hermaphrodite is not a male, but a distinct entity. **And** as for the difficulty that in the case of a firstborn they excluded a female, a *tumtum,* and a hermaphrodite from a single verse, that is not so. **With regard to a firstborn** there are also **two verses written: "Males"** (Deuteronomy 15:19), and: **"That is a male"** (Exodus 13:12). As in the case of a burnt offering, one of these serves to exclude a female, while the other serves to exclude a *tumtum* and a hermaphrodite.

״וַחֲכָמִים אוֹמְרִים אֵינוֹ בְּכוֹר״ כו׳. אָמַר רַב חִסְדָּא: מַחֲלוֹקֶת בְּאַנְדְּרוֹגִינוֹס, אֲבָל בְּטוּמְטוּם – דִּבְרֵי הַכֹּל סְפֵיקָא הוּא, וְקָדוֹשׁ מִסְּפֵיקָא.

§ The mishna teaches: **And the Rabbis say:** A hermaphrodite **does not** have **firstborn** status; rather, its status is that of a non-sacred animal that may be shorn and utilized for labor. **Rav Ḥisda says:** This **dispute** applies **to a hermaphrodite,** which the Rabbis maintain is a distinct entity, as it has both male and female sex organs, and therefore it does not have firstborn status. **But with regard to a *tumtum,*** whose genitalia is covered by skin, **everyone agrees** that **it is an uncertain** case,[H] as it is definitely either a male or a female, but there is uncertainty as to which it is. **And** consequently, it is **consecrated due to uncertainty,** and it may not be slaughtered either in the Temple or in the rest of the country.

אֲמַר לֵיהּ רָבָא: אֶלָּא מֵעַתָּה – בַּעֲרָכִין יַעֲרֵךְ!

Rava said to Rav Ḥisda: **If that is so,** that a *tumtum* is certainly either a male or a female, **with regard to valuations,**[B] when someone vows to give the valuation of a *tumtum,* **it should be valuated,** either in accordance with the valuation of a man or a woman.

HALAKHA

A *tumtum*, everyone agrees that it is an uncertain case – טוּמְטוּם דִּבְרֵי הַכֹּל סְפֵיקָא הוּא: An animal that is a *tumtum* has uncertain firstborn status, and it may be eaten by its owner when it develops a blemish. This *halakha* is in accordance with the opinion of Rav Ḥisda (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:5; *Shulḥan Arukh*, *Yoreh De'a* 315:2–3).

BACKGROUND

Valuations – עֲרָכִין: A valuation is a vow to donate the value of a particular individual to the Temple treasury. The sum to be paid is not determined by the individual's social stature or by his value as a slave; rather, the Torah provides fixed sums based upon age and sex. If one vows to donate the valuation of a particular limb, his vow is of no consequence, as only a whole person has a valuation. By contrast, one can vow to donate the actual monetary value of a limb to the Temple treasury. Notwithstanding this distinction, if one vows to donate the valuation of a critical organ or limb, e.g., if he says: I am obligated in the valuation of my head, it is as though he vowed to donate his full valuation, because one cannot live without a head. The *halakhot* of valuations appear in Leviticus 27:1–8 and are clarified in tractate *Arakhin*.

Perek **VI**
Daf **42** Amud **a**

אַלְמָה תַּנְיָא: ״הַזָּכָר״ – וְלֹא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס? סְמֵי מִיכָּן טוּמְטוּם.

Why, then, **is** it **taught** in a *baraita* that the verse: "Then your valuation shall be for **the male**" (Leviticus 27:3), includes one whose status as a male is certain **but not a *tumtum* or a hermaphrodite?**[H] The Gemara answers: **Omit from** this *baraita* the mention of **a *tumtum,*** as it is referring only to a hermaphrodite, which is a distinct entity.

תָּא שְׁמַע: יָכוֹל לֹא יְהֵא בְּעֶרֶךְ אִישׁ, אֲבָל יְהֵא בְּעֶרֶךְ אִשָּׁה? תַּלְמוּד לוֹמַר: ״הַזָּכָר... אִם נְקֵבָה״ – וְלֹא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס! סְמֵי מִיכָּן טוּמְטוּם.

The Gemara suggests: **Come** and **hear** the continuation of that *baraita*: One **might** have thought that these **shall not be** valuated according to **the valuation of a man, but** they **shall be** valuated according to **the valuation of a woman.** Therefore, **the verse states: "The male,"** and in the following verse it states: "And **if** she is **a female,** then your valuation shall be thirty shekels" (Leviticus 27:4), indicating only one whose status as a male or female is certain, **but not a *tumtum* or a hermaphrodite,** which are categorized as neither male nor female. The Gemara again answers: **Omit from** this *baraita* the mention of **a *tumtum,*** as it is referring only to a hermaphrodite.

תָּא שְׁמַע: ״אִם זָכָר אִם נְקֵבָה״ – זָכָר וַדַּאי נְקֵבָה וַדַּאית, וְלֹא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס! סְמֵי מִיכָּן טוּמְטוּם.

The Gemara suggests: **Come** and **hear** a *baraita* discussing the peace offering, with regard to which it states: **"Whether male or female"** (Leviticus 3:1). This indicates: Only **a definite male** or **a definite female, but not a *tumtum* or a hermaphrodite.**[H] Yet again the Gemara responds: **Omit from** this *baraita* the mention of **a *tumtum.***

תָּא שְׁמַע: ״הַזָּכָר״ – וְלֹא נְקֵבָה; כְּשֶׁהוּא אוֹמֵר לְמַטָּה ״זָכָר״ – שֶׁאֵין תַּלְמוּד לוֹמַר, מַה תַּלְמוּד לוֹמַר? לְהוֹצִיא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס! סְמֵי מִיכָּן טוּמְטוּם.

The Gemara suggests: **Come** and **hear** a *baraita*: It states with regard to a burnt offering from cattle: **"A male"** (Leviticus 1:3), from which it can be inferred: **But not a female. When it says below,** with regard to a burnt offering from sheep: **"A male"** (Leviticus 1:10), a second time, it is difficult to understand, **as** there is **no** need for **the verse to state** this. **Why** must **the verse state** "a male" again? This serves **to exclude a *tumtum* and a hermaphrodite,** which are disqualified as burnt offerings. The Gemara answers: **Omit from** this *baraita* the mention of **a *tumtum.***

HALAKHA

A *tumtum* and a hermaphrodite with regard to valuations – טוּמְטוּם וְאַנְדְּרוֹגִינוֹס לְעִנְיַן עֲרָכִין: The Torah established fixed amounts for the valuations of those whose status as males or females is uncertain, but there is no valuation for a *tumtum* or a hermaphrodite. Therefore, if a *tumtum* or a hermaphrodite said: My valuation is upon me, or if someone else vowed to give the valuation of a *tumtum* or a hermaphrodite, he is not obligated to give any money. This *halakha* is in accordance with the mishna in tractate *Arakhin* (2a). This *halakha* does not follow the opinion of Rav Ḥisda that a *tumtum* is an uncertain case and that the mention of a *tumtum* should be deleted from the *baraita*. The Rambam rules similarly with regard to all the *baraitot* cited in this discussion (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin* 1:5, and see *Leḥem Mishne* on *Sefer Nashim*, *Hilkhot Ishut* 4:10).

A *tumtum* and a hermaphrodite with regard to an offering – טוּמְטוּם וְאַנְדְּרוֹגִינוֹס לְעִנְיַן קָרְבָּן: If one consecrated an animal that is a *tumtum* or hermaphrodite as an offering for sacrifice on the altar, his consecration is of no effect, as though he consecrated sticks and stones. This is because inherent sanctity does not take effect on them and they remain entirely non-sacred (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:10).

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תָּא שְׁמַע: הַנֶּעֱבָד וְהַמּוּקְצֶה וְהָאֶתְנָן וְהַמַּחְיִר וְטוּמְטוּם וְאַנְדְּרוֹגִינוֹס – כּוּלָּן מְטַמְּאִין בְּגָדִים אֲבִית הַבְּלִיעָה.

The Gemara suggests: **Come** and **hear** a *baraita* discussing the *halakhot* of ritual impurity imparted by a bird in the throat: Any bird that was not slaughtered in the proper manner, i.e., in its neck with a knife, has the status of a carcass. This carcass renders the one who eats it impure when it is in his throat. Bird offerings, which are killed by pinching the nape of the neck with a fingernail, are the exception to this principle, and they do not impart impurity. With regard to a bird **that is worshipped** as a deity, **or one set aside** for idol worship, **or one** given as **payment** to a prostitute, **or one** that was given as **the price** of a dog (see Deuteronomy 23:19), **and** similarly with regard to a bird that is **a *tumtum* or a hermaphrodite,** if one killed any of them by pinching, they are ritually impure, as they are disqualified as offerings, and the pinching does not purify them. Therefore, **they all render** a person and the **garments** he is wearing **ritually impure** if an olive-bulk of them comes into contact **with the throat** while eating.[H]

רַבִּי אֱלִיעֶזֶר אוֹמֵר: טוּמְטוּם וְאַנְדְּרוֹגִינוֹס – אֵין מְטַמְּאִין בְּגָדִים אֲבִית הַבְּלִיעָה. שֶׁהָיָה רַבִּי אֱלִיעֶזֶר אוֹמֵר: כָּל מָקוֹם שֶׁנֶּאֱמַר זָכָר וּנְקֵבָה – אַתָּה מוֹצִיא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס מִבֵּינֵיהֶם;

Rabbi Eliezer says: If one pinched the neck of **a *tumtum* or a hermaphrodite, it does not render** the person and **the garments** he is wearing **ritually impure** when they are **in the throat,** as they are in fact fit to be sacrificed. **As Rabbi Eliezer would say: Wherever it is stated** explicitly in the Torah: "**Male,**" **and: "Female," you** should **exclude a *tumtum* and a hermaphrodite from among them,** as their status is uncertain. This applies to animal offerings, with regard to which the Torah states "male" and "female."

וְעוֹף, הוֹאִיל וְלֹא נֶאֱמַר בּוֹ זָכָר וּנְקֵבָה – אֵין אַתָּה מוֹצִיא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס מִבֵּינֵיהֶם! סְמֵי מִיכָּן טוּמְטוּם.

But in the case of **a bird** offering, **since** "**male**" **and** "**female**" **are not stated with regard to it,** but simply doves and pigeons are stated with regard to it, **you do not exclude a *tumtum* and a hermaphrodite from among them,** as they are fit for the altar. Now if a *tumtum* is considered either definitely a male or a female, then why does the first *tanna* disqualify it from being sacrificed? The Gemara again replies: **Omit from** this *baraita* the mention of **a *tumtum*.**

תָּא שְׁמַע, רַבִּי אֶלְעָזָר אוֹמֵר: הַטְּרֵיפָה וְהַכִּלְאַיִם וְיוֹצֵא דּוֹפֶן, טוּמְטוּם וְאַנְדְּרוֹגִינוֹס – לֹא קְדוּשִׁים וְלֹא מַקְדִּישִׁין;

The Gemara suggests: **Come** and **hear** that **Rabbi Elazar says: An animal with a condition that will cause it to die within twelve months** [*tereifa*]**, and** prohibited **diverse kinds** of livestock, **and** an animal **born by caesarean section,** and an animal that is **a *tumtum* or a hermaphrodite do not become consecrated and do not render** another animal **consecrated** in their place.

וְאָמַר שְׁמוּאֵל: לֹא קְדוּשִׁים – בִּתְמוּרָה, וְלֹא מַקְדִּישִׁין – לַעֲשׂוֹת תְּמוּרָה! סְמֵי מִיכָּן טוּמְטוּם.

And Shmuel says in explanation: **They do not become consecrated by substitution,**[H] i.e., if one sought to substitute one of these animals for a sacrificial animal, it does not become sacred. **And** if one of these was born to a sacrificial animal, **they do not render** a non-sacred animal **consecrated** in a case where one wanted **to render** it **a substitute** for them. And if a *tumtum* is either a male or female, why would it not become consecrated and render another animal consecrated? The Gemara answers: **Omit from** this *baraita* the mention of **a *tumtum*.**

HALAKHA

כּוּלָּן מְטַמְּאִין בְּגָדִים אֲבִית הַבְּלִיעָה: They all render a person and the garments he is wearing ritually impure if an olive-bulk comes into contact with the throat while eating – If a bird that was the object of bestiality, or set aside for idol worship, or worshipped as an idol, or given as payment to a prostitute, or given as the price of a dog, or was a *tumtum* or a hermaphrodite, even if it was killed by pinching the nape of the neck, it is considered an unslaughtered carcass in all respects. And it renders a person and the garments he is wearing ritually impure when it is eaten and comes into contact with his throat. The reason is that such birds are not imbued with sanctity, and therefore their disqualification did not occur in the course of the Temple service (Rambam *Sefer Avoda*, *Hilkhot Pesulei HaMukdashin* 7:4).

לֹא קְדוּשִׁים – בִּתְמוּרָה: They do not become consecrated by substitution – If one attempted to substitute for a sacrificial animal an animal born from diverse kinds, a *tereifa*, an animal born by caesarean section, or an animal that is a *tumtum* or a hermaphrodite, the substituted animal does not become sacred. This is because these types of animals cannot be used for sacrifice, and it is as though he transferred the sanctity of the offering to a camel or a donkey. This *halakha* is in accordance with the opinion of Rabbi Eliezer, as explained by Shmuel (Rambam *Sefer Korbanot*, *Hilkhot Temura* 1:17).

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תָּא שְׁמַע, רַבִּי אֶלְעָזָר אוֹמֵר: חֲמִשָּׁה לֹא קְדוּשִׁים וְלֹא מַקְדִּישִׁין, וְאֵלּוּ הֵן: הַטְּרֵיפָה, וְהַכִּלְאַיִם, וְיוֹצֵא דּוֹפֶן, וְטוּמְטוּם, וְאַנְדְּרוֹגִינוֹס. וְכִי תֵּימָא, הָכָא נַמִּי סְמֵי מִיכָּן טוּמְטוּם – הָווּ לְהוּ אַרְבָּעָה! אַפִּיק טוּמְטוּם וְעָיֵיל יָתוֹם.

The Gemara suggests: **Come** and **hear** a slightly different version of that *baraita*. **Rabbi Elazar says:** There are **five** types of animals that **do not become consecrated and do not render** another animal **consecrated, and they are: A *tereifa*, and** prohibited **diverse kinds** of livestock, **and** an animal **born by caesarean section, and** an animal that is **a *tumtum*, and a hermaphrodite. And if you would say: Here too, omit from this** *baraita* **a *tumtum*,** then **there are** only **four** types of animals listed in the *baraita*. The Gemara answers: **Remove** the mention of **a *tumtum* and** in its place **insert an orphan,** i.e., an animal born after the death of its mother, which is also disqualified as a sacrifice.

לֵימָא כְּתַנָּאֵי, רַבִּי אִילְעַאי אוֹמֵר מְשׁוּם רַבִּי יִשְׁמָעֵאל: אַנְדְּרוֹגִינוֹס בְּכוֹר הוּא וּמוּמוֹ עִמּוֹ. וַחֲכָמִים אוֹמְרִים: אֵין קְדוּשָּׁה חָלָה עָלָיו. רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה אוֹמֵר מְשׁוּם רַבִּי שִׁמְעוֹן: הֲרֵי הוּא אוֹמֵר ״הַזָּכָר״, וְכָל מָקוֹם שֶׁנֶּאֱמַר זָכָר – אֵינוֹ אֶלָּא לְהוֹצִיא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס.

The Gemara suggests: **Let us say** that this question of whether a *tumtum* is a distinct entity or is definitely either a male or female **is the subject of** a dispute between ***tanna'im*.** As it is taught in a *baraita* that **Rabbi Ilai says in the name of Rabbi Yishmael: A hermaphrodite is a firstborn, and** it comes **with its blemish; and the Rabbis say: It is not imbued with sanctity. Rabbi Shimon ben Yehuda says in the name of Rabbi Shimon:** The verse **states: "Males"** (Deuteronomy 15:19), **and wherever it is stated: Male,"** this serves **to exclude only a *tumtum* and a hermaphrodite.** Since according to Rabbi Shimon ben Yehuda it is necessary for a verse to exclude a *tumtum*, like a hermaphrodite, from the category of a male, evidently in his opinion a *tumtum* is not considered to be one whose status as a male is uncertain but a distinct entity.

וְכִי תֵּימָא, סְמֵי מִיכָּן טוּמְטוּם – רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה הַיְינוּ רַבָּנַן! אֶלָּא לָאו טוּמְטוּם אֵיכָּא בֵּינַיְיהוּ; דְּתַנָּא קַמָּא סָבַר: אֵין קְדוּשָּׁה חָלָה עָלָיו – אַאַנְדְּרוֹגִינוֹס, אֲבָל טוּמְטוּם – סְפֵיקָא הוּא, וְקָדוֹשׁ מִסְּפֵיקָא. וַאֲתָא רַבִּי שִׁמְעוֹן

The Gemara analyzes this *baraita*: **And if you would say:** Here too, **omit from** this *baraita* **a *tumtum*,** then the opinion of **Rabbi Shimon ben Yehuda is** the same as that of **the Rabbis,** as they too maintain that a hermaphrodite is not sacred. **Rather,** is it **not** that the difference **between them** is with regard to the status of **a *tumtum*, as the first *tanna*,** i.e., the Rabbis, **holds: It is not imbued with sanctity,** and they are referring specifically **to a hermaphrodite,** which was the subject of Rabbi Ilai's statement, **but a *tumtum* is an uncertain** case, **and** therefore **it is sacred due to uncertainty. And Rabbi Shimon**

Perek **VI**
Daf **42** Amud **b**

בֶּן יְהוּדָה לְמֵימַר: טוּמְטוּם בְּרִיָּה הוּא, וְלֹא קָדוֹשׁ! לָא, דְּכוּלֵי עָלְמָא – טוּמְטוּם בְּרִיָּה לָא מִסַּפְקָא, זָכָר וּנְקֵבָה הוּא דְּמִסַּפְקָא.

ben Yehuda comes to say: A *tumtum* is not of uncertain status, but a distinct **entity, and it is not sacred** at all. The Gemara responds: **No, everyone** agrees **with regard to** the statement that **a *tumtum* is** a distinct **entity** that **there is no doubt** that this is incorrect. **Where** there is **doubt is** with regard to whether it is **a male or a female.**

מֵטִיל מַיִם בִּמְקוֹם זַכְרוּת – דְּכוּלֵי עָלְמָא לָא פְּלִיגִי דְּזָכָר הוּא, כִּי פְּלִיגִי – בְּמֵטִיל מַיִם בִּמְקוֹם נְקֵבוּת, מָר סָבַר: חָיְישִׁינַן שֶׁמָּא נֶהְפְּכָה זַכְרוּתוֹ לִנְקֵבוּתוֹ, וּמָר סָבַר: לָא חָיְישִׁינַן; כִּי הָא דְּהוֹרָה רַבִּי אֶלְעָזָר: בִּבְהֵמָה מֵטִיל מַיִם בִּמְקוֹם נְקֵבוּת – חוּלִּין.

In addition, in a case where the *tumtum* **urinates from the place of the male** sex organ,[H] then **everyone agrees that it is a male. When they disagree** is in the case **of** a *tumtum* that **urinates from the place of the female** sex organ. One **Sage,** the Rabbis, **holds** that **we are concerned** that **perhaps its male** sex organ **was inverted toward its female** sex organ; therefore, it is of uncertain status. **And** one **Sage,** Rabbi Shimon ben Yehuda, **holds** that **we are not concerned** about this possibility; rather, it is definitely a female. And Rabbi Shimon ben Yehuda maintains **in accordance with that which Rabbi Elazar ruled: With regard to** a firstborn **animal** that **urinates from the place** where **the female** sex organ is found, it is **non-sacred,** as it is certainly a female.

HALAKHA

The *tumtum* urinates from the place of the male sex organ – מֵטִיל מַיִם בִּמְקוֹם זַכְרוּת: If a firstborn animal is a *tumtum* it is considered an animal whose status as a firstborn is uncertain, and its owner may eat it when it develops a blemish. This applies only if it urinates from the place where the female sex organ is found, but if it urinates from the place of the male sex organ, it is considered an animal whose status as a firstborn is certain and it must be given to a priest. This *halakha* is in accordance with the opinion of the Rabbis, as explained by the Gemara. The Rambam maintains that even if it urinates from the place of the male sex organ, it is of uncertain firstborn status, which is in accordance with the opinion of Rav Ḥisda, who does not differentiate between these cases (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:5, and see *Kesef Mishne* there; *Shulḥan Arukh*, *Yoreh De'a* 315:2).

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HALAKHA

A *tumtum* who betrothed – טוּמְטוּם שֶׁקִּידֵּשׁ: If a *tumtum* betrothed a woman or was betrothed by a man, there is uncertainty as to whether the betrothal is valid and therefore a bill of divorce is required, as stated in the *baraita*. The Ra'avad writes that if the *tumtum* was betrothed by a man, no bill of divorce is required (Rambam *Sefer Nashim*, *Hilkhot Ishut* 4:11; *Shulḥan Arukh*, *Even HaEzer* 44:5).

תָּהֵי בָּהּ רַבִּי יוֹחָנָן: מַאן דְּלָא חָשׁ לְתַנָּא קַמָּא וּלְרַבִּי יִשְׁמָעֵאל! וְלֵימָא רַבִּי יוֹחָנָן נַמִּי: מַאן דְּלָא חָשׁ לָרַבָּנַן בַּתְרָאֵי; דְּאָמַר רַב חִסְדָּא: מַחֲלוֹקֶת – בְּאַנְדְּרוֹגִינוֹס, אֲבָל בְּטוּמְטוּם – דִּבְרֵי הַכֹּל סְפֵיקָא!

Rabbi Yoḥanan wondered about this ruling of Rabbi Elazar: **Who** is the Sage **who is not concerned about** the opinion of **the first *tanna*** in the mishna **and about** the opinion of **Rabbi Yishmael,** who maintain that a *tumtum* is a case of uncertainty? The Gemara asks: **And let Rabbi Yoḥanan also say: Who** is this **who is not concerned about** the opinion of **the latter Rabbis** in the mishna, **as Rav Ḥisda says:** This **dispute** refers **to a hermaphrodite; but with regard to a *tumtum*, everyone agrees** that **it is an uncertain** case.

רַבִּי יוֹחָנָן לָא סְבִירָא לֵיהּ דְּרַב חִסְדָּא. אִי לָא סְבִירָא לֵיהּ, לֵימָא: הוּא דְּאָמַר כְּרַבָּנַן בַּתְרָאֵי! הָכִי נַמִּי קָאָמַר: מַאן שָׁבִיק תְּרֵי וְעָבֵיד כְּחַד!

The Gemara explains that **Rabbi Yoḥanan does not hold** in accordance with that statement **of Rav Ḥisda;** rather, he maintains that according to the latter Rabbis a *tumtum* is a distinct entity. The Gemara asks: **If Rabbi Yoḥanan does not hold** in accordance with Rav Ḥisda, why did he wonder about Rabbi Elazar's ruling? **Let him say that** Rabbi Elazar **said** his opinion **in accordance with** the opinion of **the latter Rabbis.** The Gemara answers: **That is indeed what he is saying: Who** is the Sage **who leaves** aside the opinion of **two** Sages, the first *tanna* and Rabbi Yishmael, **and acts in accordance with one** opinion, the latter Rabbis?

וְרַבִּי אֶלְעָזָר כְּמַאן סָבְרָא – כִּי הָא דְּאָמַר רֵישׁ לָקִישׁ: לֹא אָמְרוּ טוּמְטוּם סָפֵק – אֶלָּא בְּאָדָם, הוֹאִיל וְזִכְרוּתוֹ וְנִקְבוּתוֹ בְּמָקוֹם אֶחָד. אֲבָל בְּהֵמָה, מֵטִיל מַיִם בְּמִקּוֹם זִכְרוּת – זָכָר, מֵטִיל מַיִם בְּמִקּוֹם נִקְבוּת – נְקֵבָה.

The Gemara asks: **And Rabbi Elazar, in accordance with whose** opinion does **he hold?** The Gemara answers that he holds **in accordance with that which Reish Lakish says:** The Sages **said that** the halakhic status of **a *tumtum* is an uncertain** case **only with regard to a person, since the male** sex organ **and the female** sex organ **are in one place,** i.e., a man and a woman urinate from the same area of the body. Since that area is concealed in the case of a *tumtum*, its status is uncertain. **But** with regard to a *tumtum* **animal,** there is no uncertainty whether it is a male or a female, as the genitals of a male and a female are not found in the same place. Rather, if it **urinates from the place** of **the male** sex organ, it is **a male;** if it **urinates from the place of the female** sex organ, it is **a female.**

מַתְקִיף לָהּ רַב אוֹשַׁעְיָא: וְלֵיחוּשׁ שֶׁמָּא נֶהְפְּכָה זִכְרוּתוֹ לְנַקְבוּתוֹ! אֲמַר לֵיהּ: כְּמַאן – כְּרַבִּי מֵאִיר דְּחָיֵישׁ לְמִיעוּטָא?!

Rav Oshaya objects to this: And let us be concerned that **perhaps its male** sex organ **was turned round to** the place of **its female** sex organ. Abaye **said to him: In accordance with whose** opinion do you raise this objection? Is it **in accordance with** the opinion of **Rabbi Meir, who is concerned about the minority** of cases? The *halakha* is not in accordance with the opinion of Rabbi Meir, and therefore one should follow the majority of animals, to whom this does not occur.

אַבַּיֵי בַּר אָבִין וְרַב חֲנַנְיָא בַּר אָבִין דְּאָמְרִי תַּרְוַיְיהוּ: אֲפִילּוּ תֵּימָא רַבָּנַן, הוֹאִיל וְאִישְׁתַּנֵּי – אִישְׁתַּנֵּי! אִית דְּאָמַר – אִישְׁתַּנֵּי, וְאִית דְּאָמַר – לָא אִישְׁתַּנֵּי.

Abaye bar Avin and Rav Ḥananya bar Avin[P] **both say: You** may **even say** that Rav Oshaya's objection is in accordance with the opinion of **the Rabbis,** who are not concerned about a minority. The reason is that **since** in this case, the animal **has changed** in that it is different from typical animals, as it is a *tumtum*, perhaps it is also **changed** with regard to its male sex organ being inverted toward the female sex organ. If so, the Sages disagree with regard to this principle: **There are** those **who say** that since it has changed, it has **changed, and there are** those **who say** that the claim that since it has changed, it has **changed** is **not** accepted.

לֵימָא אִישְׁתַּנֵּי וְלָא אִישְׁתַּנֵּי תַּנָּאֵי? דְּתַנְיָא: טוּמְטוּם שֶׁקִּידֵּשׁ – קִדּוּשָׁיו קִדּוּשִׁין, נִתְקַדֵּשׁ – קִדּוּשָׁיו קִדּוּשִׁין.

The Gemara suggests: **Let us say** that the question of whether an animal that has changed in one respect has **changed** in a different respect, **or** whether it has **not changed,** is the subject of a dispute between ***tanna'im*. As it is taught** in a *baraita*: With regard to **a *tumtum* who betrothed**[H] a woman, the **betrothal is** considered **a betrothal,** due to uncertainty, as the *tumtum* might be a male; and similarly, if the *tumtum* **was betrothed** by a man, the **betrothal is** deemed **a betrothal** due to uncertainty, as the *tumtum* might be a female.

PERSONALITIES

Abaye bar Avin and Rav Ḥananya bar Avin – אַבַּיֵי בַּר אָבִין וְרַב חֲנַנְיָא בַּר אָבִין: Abaye bar Avin and Rav Ḥananya bar Avin were fourth-generation Babylonian *amora'im*. These two Sages, who were possibly brothers, are mentioned together a number of times in the Babylonian Talmud. For instance, the Gemara relates that they studied Torah together from Rabba, transmitted rulings of *halakha*, and celebrated Purim together. In addition, they would often engage in discussions with Abaye. Their statements are cited and discussed by Sages of subsequent generations, such as Rav Ashi, Ravina, and Mareimar.

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וְחוֹלֵץ, וְחוֹלְצִין לְאִשְׁתּוֹ וּמְיַבְּמִים לְאִשְׁתּוֹ. וְתָנֵא אִידָךְ: אֵשֶׁת טוּמְטוּם – חוֹלֶצֶת וְלֹא מִתְיַיבֶּמֶת.

The *baraita* continues: **And** if the brother of the *tumtum* died childless, and there is no other brother who can perform levirate marriage with the widow, the *tumtum* **performs *ḥalitza*,**[NH] i.e., his brother's widow removes his shoe, as the *tumtum* might be a male, and she would require *ḥalitza* to release her from the levirate bond. **And** if the *tumtum* died, one of the brothers of the *tumtum* **performs *ḥalitza* with the wife of** the *tumtum*, **or enters into levirate marriage with the wife of** the *tumtum*,[NB] in case the *tumtum* was a male. **And it is taught** in **another** *baraita*: **The wife of a *tumtum* performs *ḥalitza* and does not enter into levirate marriage.**

סַבְרוּהָ, דְּכוּלֵי עָלְמָא כְּרַבִּי עֲקִיבָא, דְּאָמַר: סְרִיס חַמָּה – לֹא חוֹלֵץ וְלֹא מְיַיבֵּם;

With regard to these two *baraitot*, the Sages **assumed that everyone** holds **in accordance with** the opinion of **Rabbi Akiva, who says: A eunuch** whose condition is caused **naturally,**[B] i.e., one who was entirely lacking in sexual capacity from birth, **does not perform *ḥalitza* and does not enter into levirate marriage**[NH] with his sister-in-law, as he is not included in the mitzva of levirate marriage. Likewise, if he died his brothers do not perform *ḥalitza* with his wife, and they may not enter into levirate marriage with her, as she is forbidden to them as a brother's wife who does not require levirate marriage.

מַאי לָאו בְּהָא קָמִיפַּלְגִי, דְּמַאן דְּאָמַר חוֹלֵץ וְחוֹלְצִין לְאִשְׁתּוֹ וּמְיַבְּמִים אֶת אִשְׁתּוֹ – לָא אָמְרִינַן הוֹאִיל וְאִישְׁתַּנִּי אִישְׁתַּנִּי,

Based on this assumption, the Gemara suggests: **What, is it not** that the two *baraitot* **disagree about this, that the one who says** that a *tumtum* **performs *ḥalitza* and** one of the brothers **performs *ḥalitza* with the wife of** the *tumtum* **or enters into levirate marriage with the wife of** the *tumtum* holds that **we do not say** that **since** this *tumtum* has **changed** from an average person, he might also have **changed** in that he is a eunuch whose condition is caused naturally, and therefore the brothers would be prohibited from entering into levirate marriage with the wife? Rather, if the *tumtum* is a male, it is assumed that he is capable of fathering children, and consequently his wife requires levirate marriage.

וּמַאן דְּאָמַר חוֹלֶצֶת וְלֹא מִתְיַיבֶּמֶת – אָמְרִינַן הוֹאִיל וְאִישְׁתַּנִּי אִישְׁתַּנִּי?

And the one who says that the wife of a *tumtum* **performs *ḥalitza* and does not enter into levirate marriage** maintains that **we say** that **since** this person has **changed,** he has **changed,** i.e., the possibility that he might be a eunuch whose condition is caused naturally is considered, and therefore his wife may not enter into levirate marriage.

לָא, דְּכוּלֵי עָלְמָא אָמְרִינַן הוֹאִיל וְאִישְׁתַּנִּי אִישְׁתַּנִּי, הָא – רַבִּי אֱלִיעֶזֶר, וְהָא – רַבִּי עֲקִיבָא.

The Gemara responds: **No; everyone** agrees that **we say** that **since** this person has **changed,** he has **changed,** and there is a concern that he might be a eunuch whose condition is caused naturally. Rather, the difference between the rulings is that **this** *baraita*, which permits the wife of the *tumtum* to enter levirate marriage, is in accordance with the opinion of **Rabbi Eliezer,** who disagrees with Rabbi Akiva and maintains that levirate marriage may be performed with the wife of a eunuch whose condition is caused naturally, **and that** *baraita*, which prohibits levirate marriage, is in accordance with the opinion of **Rabbi Akiva,** that the brothers of a eunuch whose condition is caused naturally do not enter into levirate marriage with the wife of the *tumtum*.

BACKGROUND

Levirate marriage and *ḥalitza* – יִבּוּם וַחֲלִיצָה: The *halakhot* of levirate marriage and *ḥalitza* appear in the Torah (see Deuteronomy 25:5–10) and are articulated at length in tractate *Yevamot*, which is devoted to this topic. The basic concept is that if a man dies with no living descendants, his wife is obligated by a levirate bond to marry her husband's brother. The brother must either marry her through levirate marriage or sever the bond by means of the ceremony of *ḥalitza*. During the time that the levirate bond is intact it is prohibited for her to marry a different man, and if she does so she is committing an ongoing transgression as long as her marriage continues.

A eunuch whose condition is caused naturally – סְרִיס חַמָּה: In contrast to a eunuch whose condition is caused by a human, i.e., who was castrated after birth, a eunuch whose condition is caused naturally is one who suffers from defective sexual development, whether through a hereditary condition or one caused by hormonal dysfunction. Sometimes a glandular defect can be cured, either by itself or through a supplement of various hormones.

NOTES

And he performs *ḥalitza* – וְחוֹלֵץ: He does not enter into levirate marriage, as he cannot father children, which is a precondition of this marriage, as it is stated (Deuteronomy 25:6): "And it shall be that the firstborn that she bears shall be established in the name of his dead brother" (see Rashash and *Yad David*).

And if the *tumtum* died one of the brothers performs *ḥalitza* with his wife or enters into levirate marriage with his wife – וְאִם מֵת חוֹלְצִין לְאִשְׁתּוֹ אוֹ מְיַבְּמִים לְאִשְׁתּוֹ: They may perform levirate marriage with his wife, since in any event they are permitted to marry her: If the *tumtum* was a male, they may perform levirate marriage with her, and if the *tumtum* was a female, he was never married to his supposed wife, and therefore she is like any other single woman.

A eunuch whose condition is caused naturally does not perform *ḥalitza* and does not enter into levirate marriage – סְרִיס חַמָּה לֹא חוֹלֵץ וְלֹא מְיַיבֵּם: The purpose of the mitzva of levirate marriage with the wife of a brother who died childless is, as stated in the Torah, to establish a name, i.e., raise children, for the late brother, who was not able to do so himself. Consequently, this mitzva, which permits a generally forbidden relationship, that of a brother's wife even after his death, is applicable only in a case where the late brother was himself fit to father children. Likewise, levirate marriage may be performed only if the surviving brother can have children. The same applies to *ḥalitza*, as *ḥalitza* is performed only when there is a possibility of levirate marriage.

According to Rabbi Akiva, there is a difference between a eunuch whose condition is caused by a human, who was initially fit to have children, and a eunuch whose condition is caused naturally, who was never able to father children, as indicated by physical signs. With regard to a eunuch whose condition is caused by a human, although he may not enter into levirate marriage, he must perform *ḥalitza*, whereas a eunuch whose condition is caused naturally performs neither levirate marriage nor *ḥalitza*, and similarly his brothers do not perform levirate marriage or *ḥalitza* with his wife after his death. Rabbi Eliezer maintains the opposite, that since a eunuch whose condition is caused by a human cannot be cured, he does not perform *ḥalitza* and *ḥalitza* is not performed with his wife, whereas a eunuch whose condition is caused naturally does perform *ḥalitza* and his brothers perform *ḥalitza* with his wife, as there is the possibility of a cure (see *Yevamot* 79b).

HALAKHA

A *tumtum* performs *ḥalitza* – טוּמְטוּם חוֹלֵץ: A *tumtum* may perform *ḥalitza* but not levirate marriage, as his status is uncertain (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 6:4; *Shulḥan Arukh*, *Even HaEzer* 172:9).

A eunuch whose condition is caused naturally does not perform *ḥalitza* and does not enter into levirate marriage – סְרִיס חַמָּה לֹא חוֹלֵץ וְלֹא מְיַיבֵּם: A eunuch whose condition is caused naturally is not included in the mitzvot of *ḥalitza* and levirate marriage, as he is unable to father children and was never able to do so, in accordance with the opinion of Rabbi Akiva in the mishna *Yevamot* 79b (Rambam *Sefer Nashim*, *Hilkhot Yibbum Vaḥalitza* 6:1–2; *Shulḥan Arukh*, *Even HaEzer* 172:1).

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וּמַאן תַּנָּא אַלִּיבָּא דְּרַבִּי עֲקִיבָא? אִילֵּימָא רַבִּי יְהוּדָה – הָא וַדַּאי סָרִיס מְשַׁוֵּי לֵיהּ!

The Gemara asks: **And who is the *tanna*** who holds **in accordance with** the opinion **of Rabbi Akiva** that the wife of a eunuch whose condition is caused naturally does not require levirate marriage, and yet he maintains that the wife of a *tumtum* must perform *ḥalitza*? **If we say** it is **Rabbi Yehuda,** this cannot be, as in his opinion even if the genitals of a *tumtum* were revealed and he was found to be a male, **he deems him** like **a definite eunuch** whose condition is caused naturally, and therefore his wife does not require *ḥalitza* at all.

דְּתָנַן, רַבִּי יְהוּדָה אוֹמֵר: טוּמְטוּם שֶׁנִּקְרַע וְנִמְצָא זָכָר – הֲרֵי זֶה לֹא יַחֲלוֹץ, מִפְּנֵי שֶׁהוּא כְּסָרִיס!

As we learned in a mishna (*Yevamot* 81a) that **Rabbi Yehuda says:** With regard to **a *tumtum* who was torn** open so that his genitals were exposed, **and he was found** to be **a male,**[H] he **must not perform *ḥalitza*, because he is** treated **like a eunuch** whose condition is caused naturally. Just as this *tumtum* does not perform *ḥalitza*, so too, his widow does not require *ḥalitza*.

אֶלָּא רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה הִיא, דְּתַנְיָא, רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: טוּמְטוּם לֹא חוֹלֵץ – שֶׁמָּא יִקָּרַע וְיִמָּצֵא סְרִיס חַמָּה.

Rather, it is the opinion of **Rabbi Yosei, son of Rabbi Yehuda,** who maintains that if a *tumtum* was torn open and he was found to be a male, he is considered as a matter of uncertainty to be a eunuch whose condition is caused naturally, and consequently his wife requires *ḥalitza*. **As it is taught** in a *baraita* that **Rabbi Yosei, son of Rabbi Yehuda, says: A *tumtum* does not perform *ḥalitza*** with the wife of his late, childless brother if there are other brothers to perform *ḥalitza*, as **perhaps** the skin covering his genitals **will be torn** open **and he will be found** to be **a eunuch** whose condition is caused **naturally,** and the widow would not be released from the levirate bond by his *ḥalitza*. According to this opinion, it is not certain that a *tumtum* would be found to be a eunuch whose condition is caused naturally.

אַטּוּ כָּל דְּמִיקָּרַע זָכָר מִשְׁתַּכַּח, נְקֵבָה לָא מִשְׁתַּכַּח? שֶׁמָּא קָאָמַר, שֶׁמָּא יִקָּרַע וְיִמָּצֵא נְקֵבָה;

With regard to the opinion of Rabbi Yosei, son of Rabbi Yehuda, the Gemara asks: Why does this individual not perform *ḥalitza* due only to the possibility that he will be found to be a eunuch whose condition is caused naturally? **Is that to say** that **every** *tumtum* **whose** skin **was torn is found** to be **a male** and is **not found** to be **a female?** The Gemara explains that Rabbi Yosei, son of Rabbi Yehuda, **said** his opinion in the formulation of: **Perhaps,** which includes multiple uncertainties: A *tumtum* must not perform *ḥalitza*, as **perhaps he will be torn** open **and found** to be **a female,** who can certainly not perform *ḥalitza*.

אִי נַמִּי, זָכָר נַמִּי – שֶׁמָּא יִמָּצֵא סְרִיס חַמָּה. מַאי בֵּינַיְיהוּ? אֲמַר רָבָא:

Alternatively, if he is found to be **a male,** he may **also** not perform *ḥalitza*, since **perhaps he will be found** to be **a eunuch** whose condition is caused **naturally.** The Gemara asks: Since both Rabbi Yehuda and Rabbi Yosei, son of Rabbi Yehuda, agree that a *tumtum* may not perform *ḥalitza* for his brother's wife, **what is** the practical difference **between** their opinions? **Rava said:**

HALAKHA

טוּמְטוּם שֶׁנִּקְרַע וְנִמְצָא זָכָר: A *tumtum* who was torn open so that his genitals were exposed and he was found to be a male – If the skin covering a *tumtum* was torn open so that his genitals were exposed, and he was found to be a male, he may perform either *ḥalitza* or levirate marriage, as he is considered a male. This *halakha* is in accordance with the opinion of the Rabbis who disagree with Rabbi Yehuda and Rabbi Yosei. Others maintain that he too is considered of uncertain status, and the *halakha* is stringent in accordance with the opinion of Rabbi Yosei, son of Rabbi Yehuda, as nowhere is it explicitly stated that the Rabbis disagree with him (Rambam *Sefer Nashim*, *Hilkhot Yibbum Vaḥalitza* 6:4; *Shulḥan Arukh*, *Even HaEzer* 172:9).

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לִפְסוֹל בִּמְקוֹם אַחִים,

There is a practical difference **with regard to disqualifying** the widow, through his *ḥalitza*, from entering into levirate marriage **in a case** where there are other **brothers.** According to Rabbi Yehuda, who maintains that this individual is certainly a eunuch whose condition is caused naturally, his *ḥalitza* is of no effect whatsoever, and therefore she may enter into levirate marriage with one of the other brothers. Conversely, according to Rabbi Yosei, son of Rabbi Yehuda, since it is possible that he is not a eunuch and his *ḥalitza* is valid, she is forbidden to the other brothers as their brother's wife.

וְלַחֲלוֹץ שֶׁלֹּא בִּמְקוֹם אַחִים, אִיכָּא בֵּינַיְיהוּ.

And there is also a practical difference **between their** opinions **with regard to performing *ḥalitza*** with the widow **in a case where there are no brothers** other than this *tumtum*. According to Rabbi Yehuda, *ḥalitza* is not necessary in this case, as she requires *ḥalitza* only if her late husband had brothers who are obligated to perform levirate marriage, and this individual is definitely a eunuch whose condition is caused naturally. By contrast, Rabbi Yosei, son of Rabbi Yehuda, maintains that he must perform *ḥalitza* with her, in case he is a male and not a eunuch.

הדרן עלך על אלו מומין

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Summary of **Perek VI**

This chapter listed the blemishes on account of which one may slaughter a firstborn outside the Temple, and on account of which one may redeem other sacrificial animals. This list, which Ila enumerated before the Sages in Yavne, follows a clear order, proceeding from blemishes involving the uppermost limb in the body of an animal, i.e., its ear, to blemishes of the eye, some of which are temporary, then to the nose, mouth, and teeth, and from there to blemishes of the rest of the body, followed by the genitals and then the feet. Next the chapter dealt with those blemishes whose status was a matter of dispute among the Sages, as well as various blemishes that were included in the list by individual Sages.

The basic classification of those blemishes for which one may slaughter a firstborn animal outside the Temple includes all those that are defined as blemishes in the passage in the Torah that deals with sacrificial animals in general, with the addition of others derived from the verse discussing a firstborn animal, which states: "Lameness, or blindness, any ill blemish whatsoever" (Deuteronomy 15:21). This is interpreted as referring to any blemish that is exposed and prevents an animal from performing its normal labor, all the more so if there is loss of a limb. It does not include a temporary blemish.

While describing the details of these blemishes, the chapter discussed the examinations performed to determine whether or not a certain blemish is permanent and the question of whether the lack of an internal organ is considered a blemish. In addition, it also lists the various types of warts and skin diseases that are defined as blemishes by the Torah yet that the mishna indicates are not considered full-fledged blemishes.

Later in the chapter, the mishna enumerates a list of blemishes that disqualify an animal as a sacrifice, either by Torah law or rabbinic law, but on account of which one may neither slaughter it outside the Temple if it is a firstborn nor redeem other sacrificial animals. This list includes temporary blemishes and other types of flaws in animals, e.g., a transgression was performed with the animals or they are too repulsive to be brought to the altar.

The last section of the chapter addresses at length the status of an animal that is a *tumtum* or a hermaphrodite. Some Sages consider these as possibly male or female, and therefore they are disqualified from being sacrificed; others treat them, especially the hermaphrodite, as full-fledged blemished animals, for which one may slaughter them outside the Temple if they are firstborns. Yet others contend that they are classified as distinct entities, which are entirely disqualified as offerings. This issue was discussed by *tanna'im*, *amora'im*, and later Sages over the course of generations.

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Introduction to **Perek VII**

And the Lord spoke to Moses, saying: Speak to Aaron, saying: Whoever is of your seed throughout their generations that has a blemish, let him not approach to offer the bread of his God. For whatever man that has a blemish, he shall not approach: A blind man, or a lame, or he that has anything maimed, or anything too long, or a man that is broken-footed, or broken-handed, or crook-backed, or a dwarf, or that has a cataract or a tevallul in his eye, or is scabbed, or scurvy, or has his stones crushed; no man among the seed of Aaron the priest who has a blemish shall come forward to sacrifice the offerings of the Lord made by fire; he has a blemish; he shall not come forward to offer the bread of his God.

(Leviticus 21:16–21)

Continuing the previous chapter's discussion of blemishes that disqualify an animal from being brought as an offering, this chapter analyzes those that disqualify a priest from serving in the Temple.

With regard to the Torah's lists of blemishes that disqualify an animal and a priest, respectively, some of the blemishes are mentioned in both lists, while others are stated with regard to only one of them. The question therefore arises: Granted, certain blemishes are relevant only to a person, or only to an animal, in accordance with their different limbs and body structure. But with regard to those blemishes that are applicable to both people and animals, do disqualifications stated in one context apply to the other?

In addition to the clear-cut blemishes mentioned in the previous chapter that disqualify an animal, which involve a damaged limb, a missing limb, or a limb that ceases to function, the Sages taught that priests are disqualified from Temple service when their appearance differs greatly from that of others. This chapter examines those blemishes that disqualify a priest; some of them are disqualified by Torah law, others by rabbinic decree.

A priest can also become disqualified due to various mitzvot and prohibitions associated with the priesthood, which do not disqualify an animal. Likewise, animals may become disqualified due to factors that are inapplicable to people. This chapter clarifies these disqualifications as well.

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מתני׳ מוּמִין אֵלּוּ, בֵּין קְבוּעִין בֵּין עוֹבְרִים – פּוֹסְלִין בְּאָדָם. וְיָתֵר עֲלֵיהֶן: הַכִּילוֹן וְהַלַּפְתָּן וְהַמַּקָּבָן, וְשֶׁרֹאשׁוֹ שָׁקוּט, וּסְקִיפָת,

MISHNA Concerning **these blemishes** which were taught with regard to an animal, **whether** they are **permanent or transient, they** also **disqualify in** the case of **a person,**[H] i.e., they disqualify a priest from performing the Temple service. **And in addition to those** blemishes, there are other blemishes that apply only to a priest: **One whose** head **is pointed,** narrow above and wide below; **and one whose** head **is turnip-like,** wide above and narrow below; **and one whose** head **is hammer-like,**[B] with his forehead protruding; **and** one **whose head** has **an indentation; and** one **wherein the back of his head protrudes.**

וּבַעֲלֵי חֲטָרוֹת – רַבִּי יְהוּדָה מַכְשִׁיר, וַחֲכָמִים פּוֹסְלִין. הַקֵּרֵחַ – פָּסוּל. אֵיזֶהוּ קֵרֵחַ – כָּל שֶׁאֵין לוֹ שִׂיטָה שֶׁל שֵׂעָר מִקָּפָת מֵאוֹזֶן לְאוֹזֶן. אִם יֵשׁ לוֹ – הֲרֵי זֶה כָּשֵׁר.

And with regard to **those with humped** backs, **Rabbi Yehuda deems** them **fit** for service **and the Rabbis deem** them **disqualified. The *kere'aḥ*[H] is disqualified** from performing the Temple service. **What is a *kere'aḥ*?** It is **anyone who does not have a row of hair encircling** his head **from ear to ear. If he has** a row of hair from ear to ear, **that** person is **fit** for service.

גמ׳ אַמַּאי? וְהָאִיכָּא יַבֶּלֶת דְּלָא כְּתִיב בְּאוֹרַיְיתָא בְּאָדָם! וְתוּ, דַּק תְּבַלּוּל דְּלָא כְּתִיבִי בִּבְהֵמָה!

GEMARA The Gemara asks: **Why** does the mishna say that all the blemishes that disqualify an animal disqualify a priest as well? **But there is** the blemish of **a wart, which is not written in the Torah with regard to a person** but is written with regard to an animal (see Leviticus 22:22). **And furthermore,** there are also the blemishes of **a cataract** and **a *tevallul*, which** appear in the Torah with regard to a person but **are not written** in the Torah **with regard to an animal** (see Leviticus 21:20). Why, then, does the mishna on 38a teach that such blemishes disqualify an animal?

מִילָּף יָלְפִי מֵהֲדָדֵי. דְּתַנְיָא: בְּאָדָם לֹא נֶאֱמַר בּוֹ יַבֶּלֶת, בִּבְהֵמָה לֹא נֶאֱמַר דַּק תְּבַלּוּל, מִנַּיִן לִיתֵּן אֶת הָאָמוּר שֶׁל זֶה בָּזֶה וְאֶת הָאָמוּר שֶׁל זֶה בָּזֶה? תַּלְמוּד לוֹמַר: "גָּרָב" "גָּרָב", "יַלֶּפֶת" "יַלֶּפֶת", לִגְזֵירָה שָׁוָה.

The Gemara responds: These blemishes **are derived from one another, as it is taught** in a *baraita*: **In** the case of **a person,** i.e., a priest, **it is not stated of him** that **a wart** disqualifies him from Temple service, and **in** the case of **an animal, it is not stated** that **a cataract** or **a *tevallul*** disqualify it from being sacrificed. **From where** is it derived that one **applies that which is said of this** case **to that** case, **and that which is said of this** case **to that** case? **The verse states:** "**Scabbed**" and "**scabbed,**" "**scurvy**" and "**scurvy,**" both with regard to a person and an animal (Leviticus 21:20; 22:22), which serves **to** draw **a verbal analogy** from the verses.

מִפְּנֵי, דְּאִי לָא מִפְּנֵי אִיכָּא לְמֵיפְרַךְ: אָדָם מִבְּהֵמָה לָא יָלֵיף – שֶׁכֵּן הִיא עַצְמָהּ קְרֵיבָה לְגַבֵּי מִזְבֵּחַ, בְּהֵמָה מֵאָדָם לָא יָלְפָא – שֶׁכֵּן נִתְרַבָּה בְּמִצְוֹת.

The Gemara notes: These verses must be **free,** i.e., they are superfluous and are stated only for the purpose of the verbal analogy. This means that the verbal analogy cannot be refuted by logical reasoning, whereas if the verses are not free one can refute the analogy if there is a significant difference between the two cases. **As, if they are not free,** the verbal analogy **can be refuted** as follows: One **cannot derive** the disqualifications of **a person** for performing the Temple service **from** those of **an animal,** as the case of an animal can be considered more stringent **because** the animal **itself is sacrificed upon the altar.** Similarly, one **cannot derive** the disqualifications of **an animal from** those of **a person,** as one can claim that the *halakha* with regard to a person should be more stringent, **since** a person **was included in** the performance of **mitzvot.**

HALAKHA

These blemishes whether they are permanent or transient disqualify…a person – מוּמִין אֵלּוּ בֵּין קְבוּעִין בֵּין עוֹבְרִים פּוֹסְלִין בְּאָדָם: Any priest who is blemished, whether permanently or temporarily, may not enter the Temple beyond the outer altar. If a priest performs the Temple service while he has a type of blemish that disqualifies animals from being sacrificed, he has disqualified and profaned the rite that he performed (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 6:1–6).

***Kere'aḥ* – קֵרֵחַ:** A priest with no hair on his head is disqualified from performing the Temple service. If he has a row of hair that circles around the back of his head from ear to ear, he is fit (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:1).

BACKGROUND

One whose head is pointed…turnip-like…hammer-like – הַכִּילוֹן…לַפְתָּן…מַקָּבָן: A normal infant skull begins as several separated bone fragments that gradually fuse together into a uniform and proportional skull. If some of these bones fuse too early, then as the head grows it cannot expand in the direction of the already fused bones and will consequently compensate by expanding in another direction. In such a case, the person's skull will be deformed and disproportional relative to a normal skull, a condition known as craniosynostosis. The most common such deformation is that of the hammer-like skull, where the head is elongated and extends forward.

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לָאֵיי אַפְנוּיֵי מָפְנֵי; לִכְתּוֹב רַחֲמָנָא יַלֶּפֶת וְלָא בָּעֵי גָּרָב, וַאֲנָא אָמִינָא: וּמַה יַּלֶּפֶת דְּלָא מְאִיסָא הָוֵי מוּמָא, גָּרָב דְּמְאִיס לֹא כָּל שֶׁכֵּן? "גָּרָב" "גָּרָב" דִּכְתַב רַחֲמָנָא לָמָּה לִי – לְאַפְנוּיֵי.

Indeed, the terms **are free.** Accordingly, since these disqualifications are derived from a verbal analogy they must be accepted as though they were written explicitly in the Torah. The Gemara proves these verses are free: **Let the Merciful One write** that **scurvy** disqualifies a person and an animal, **and** it would be **unnecessary** for the Merciful One to write that **a scab** disqualifies them, as **I would say: And if scurvy, which is not repulsive, is** considered a disqualifying **blemish,** then in the case of **a scab, which is repulsive,** is it **not all the more so** a disqualifying blemish? If so, then with regard to "**scabbed**" and "**scabbed,**" **which the Merciful One writes** with regard to a person and an animal, **why do I** need them? Evidently, they are **to** be considered **free** for the verbal analogy.

וְלִכְתְּבִינְהוּ רַחֲמָנָא כּוּלְּהוּ בְּחַד, וְגָרָב וְיַלֶּפֶת הָכָא וְהָכָא, וְלֵילְפוּ מֵחֲדָא!

The Gemara raises a difficulty: **But** if animals and priests are disqualified by the same blemishes, **let the Merciful One write all the** disqualifying blemishes **with regard to one** of them, either a person or an animal, **and** let the Merciful One write that **a scab and scurvy** disqualify both **here and here,** for the purpose of the verbal analogy, **and let** all the other blemishes **be derived** in one case **from** the other **one,** through the verbal analogy.

אַהַיָּיא, בְּהֵי לִיכְתֹּב רַחֲמָנָא? אִי כְּתַב בְּאָדָם, הֲוָה אָמִינָא: כָּל דְּפָסוּל בְּאָדָם – פָּסוּל בִּבְהֵמָה, קָלוּט וְחוּטִין דְּלֵיתְנְהוּ בְּאָדָם – בִּבְהֵמָה נַמִּי לָא לִיפְסְלוּ.

The Gemara responds: **To which** is this referring, i.e., **in which** case **should the Merciful One write** all the blemishes? **If** the Merciful One had **written** all of them **with regard to a person** then **I would say: All** blemishes **that disqualify in** the case of **a person** likewise **disqualify in** the case of **an animal.** If so, then with regard to **closed** hooves **and** damaged **gums, which are not** written **with regard to a person** as they are not relevant because a person has no hooves and his gums are covered with teeth, I would say: **In** the case of **an animal as well they should not disqualify.**

וְלִכְתּוֹב רַחֲמָנָא כּוּלְּהוּ בִּבְהֵמָה – הֲוָה אָמִינָא: כָּל דְּפָסוּל בִּבְהֵמָה – פָּסוּל בְּאָדָם, גִּבֵּן וְחָרוּם דְּלֵיתְנְהוּ בִּבְהֵמָה – בְּאָדָם נַמִּי לָא לִיפְסְלוּ.

And if you would say: **Let the Merciful One write all** the blemishes **with regard to an animal, I would say: All** blemishes **that disqualify in** the case of **an animal** likewise **disqualify in** the case of **a person.** Accordingly, with regard to **a *gibben,*** one with blemished eyebrows, **or a *ḥarum,*** one with a sunken nose, **which are not** written **with regard to an animal** as such blemishes do not occur among animals, I would say: **In** the case of **a person as well they should not disqualify.** Therefore, the Torah delineates all the disqualifying blemishes with regard to both an animal and a person in order to state the blemishes that are unique to animals and the blemishes that are unique to people.

וְלִכְתְּבִינְהוּ רַחֲמָנָא כּוּלְּהוּ בְּחַד, וְהָנָךְ דְּלֵיתְנְהוּ בְּאִידָךְ – לִכְתּוֹב רַחֲמָנָא בִּבְהֵמָה, וְהָנָךְ דְּלֵיתְנְהוּ בְּאִידָךְ – לִכְתּוֹב בְּאָדָם, וְגָרָב וְיַלֶּפֶת – הָכָא וְהָכָא, וְלִילְפֵי מֵהַדָּדֵי!

The Gemara asks: **But** even so, why is it necessary for the Torah to delineate all the common blemishes? **Let the Merciful One write all of them in** the verses discussing **one** of them, either an animal or a person, **and** as for **those that are not** relevant **for the other,** i.e., those blemishes that apply only in the case of an animal, **let the Merciful One write with regard to an animal, and** as for **those that are not** relevant **for the other,** i.e., those blemishes relevant only to a person, **let** the Merciful One **write with regard to a person. And** let the Torah write the blemishes of **a scab and scurvy** both **here and there,** for the purpose of the verbal analogy, **and let** the fact that their common blemishes disqualify in both cases **be derived from one another.**

אֶלָּא כְּתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל, דְּתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: כָּל פָּרָשָׁה שֶׁנֶּאֱמְרָה וְנִשְׁנֵית, לֹא נִשְׁנֵית אֶלָּא בִּשְׁבִיל דָּבָר שֶׁנִּתְחַדֵּשׁ בָּהּ.

Rather, the reason the Torah repeats their common blemishes is **in accordance with** that which **the school of Rabbi Yishmael taught, as the school of Rabbi Yishmael taught: Every passage** in the Torah **that was stated and repeated was repeated only for the novel element introduced therein.** It is the style of the Torah to repeat a passage even in order to teach only one additional *halakha*. Consequently, with regard to the blemishes of a person and an animal, their common blemishes were repeated on account of those blemishes that apply only to an animal or a person.

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אָמַר רָבָא: לָמָּה לִי דִּכְתַב רַחֲמָנָא מוּם בְּאָדָם, מוּם בְּקָדָשִׁים, מוּם בִּבְכוֹר?

§ **Rava says: Why do I** need **the Merciful One to write** that **a blemish** causes disqualification from Temple service **in** the case of **a person,** i.e., a priest (see Leviticus 21:17–23), and that **a blemish** causes disqualification **in** the case of **sacrificial** animals (see Leviticus 22:20–25), and that **a blemish** causes disqualification for sacrifice **in** the case of **a firstborn** animal (see Deuteronomy 15:21)?

צְרִיכָא, דְּאִי כְּתַב רַחֲמָנָא מוּם בְּאָדָם – שֶׁכֵּן נִתְרַבָּה בְּמִצְוֹות, אָדָם מִבְּכוֹר בְּהֵמָה לָא אָתֵי – שֶׁכֵּן הוּא עַצְמוֹ קָרֵב לְגַבֵּי מִזְבֵּחַ,

Rava answers: They are all **necessary. As, had the Merciful One written** only that **a blemish** causes disqualification **in** the case of **a person,** one might suggest that blemishes cause disqualification only in that case, **since** a person **was included in** the performance of **mitzvot.**[N] Similarly, had the Merciful One written only that blemishes disqualify a firstborn animal from being sacrificed, it could be claimed that one **cannot derive** the disqualification of **a person** on account of blemishes **from** the disqualification of **a firstborn animal, since** an animal has an added aspect of stringency in that **it itself is sacrificed upon the altar.**

קָדָשִׁים מִבְּכוֹר לָא אָתֵי – שֶׁכֵּן קְדוּשָּׁתוֹ מֵרֶחֶם,

Additionally, one **cannot derive** the disqualifications of **sacrificial** animals **from** those of **a firstborn** animal, **since** the **sanctity of** a firstborn animal is **from the womb,** i.e., from birth, whereas the sanctity of other offerings applies only upon consecration by a person, and they are therefore of a lesser sanctity.

אָדָם מִקָּדָשִׁים לָא אָתֵי – שֶׁכֵּן הֵן עַצְמָן קְרֵיבִין, בְּכוֹר מִקָּדָשִׁים לָא אָתֵי – שֶׁכֵּן קְדוּשָּׁתוֹ מְרוּבָּה.

Furthermore, had the Merciful One written only that sacrificial animals are disqualified due to blemishes, it could be claimed that one **cannot derive** the disqualifications of **a person from** that of **sacrificial** animals, **as** the offerings **themselves are sacrificed.** Similarly, one **cannot derive** the disqualifications of **a firstborn** animal **from** those of **sacrificial** animals, **as the sanctity** of other offerings **is greater** than that of a firstborn animal because there are many types of other offerings, whereas a firstborn animal has only one type of sanctification. Therefore, it was necessary for the Merciful One to specify that blemishes disqualify in each case.

חֲדָא מֵחֲדָא לָא אָתְיָא, תֵּיתֵי חֲדָא מִתַּרְתֵּי! מֵהֵי תֵּיתֵי? לָא לִכְתּוֹב רַחֲמָנָא בִּבְכוֹר וְתֵיתֵי מֵהָנָךְ – מַה לְהָנָךְ שֶׁכֵּן קְדוּשָּׁתָן מְרוּבָּה וְנוֹהֲגִין בִּפְשׁוּטִין;

The Gemara raises a difficulty: Granted, the disqualification of **one** of these cases **cannot be derived from** only a single other **one.** But **let one** of them **be derived from** the other **two.** The Gemara rejects this suggestion: **From which** two **should** the other one **be derived?** If you will say: **Let the Merciful One not write that** blemishes disqualify **a firstborn** animal **and** one should **derive** that case **from these,** i.e., the disqualifications of a person and sacrificial animals, this suggestion can be rejected. **What** is notable **about these?** They are notable **in that their sanctity is greater** than that of a firstborn offering, as in the case of a person, he is included in the performance of mitzvot; and in the case of a sacrificial animal, there are many types of offerings. **Moreover,** the *halakhot* of these blemishes **apply to regular,** i.e., non-firstborn, animals and people.

בְּקָדָשִׁים וְתֵיתֵי מֵהָנָךְ – מַה לְהָנָךְ שֶׁכֵּן קְדוּשָּׁתָן מֵאֵלֵיהֶן;

Furthermore, if one will say: Let the Merciful One not write that blemishes disqualify **sacrificial** animals **and** one should **derive** that case **from these** cases, a person, i.e., a priest, and a firstborn animal, this too can be rejected: **What** is notable **about these?** They are notable **in that their sanctity is automatic** and requires no consecration, as a priest is a priest by virtue of being the son of a priest, and a firstborn attains its status by being the first child of its mother, while offerings are consecrated by their owners.

NOTES

Since a person was included in the performance of mitzvot – בְּאָדָם שֶׁכֵּן נִתְרַבָּה בְּמִצְוֹות: What relevance does this factor have to the disqualification of a priest from performing the Temple service on account of a blemish? The commentaries explain that a priest is obligated in many mitzvot that relate specifically to his ability to perform the Temple service. For example, he must wear certain garments, and wash his hands and feet before serving in the Temple. No such preconditions apply to an animal before it may be sacrificed. Therefore, one can claim that blemishes should disqualify a priest from performing the Temple service, but not an animal from being sacrificed.

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בְּאָדָם וְתִיתֵי מֵהָנָךְ – מַה לְּהָנָךְ שֶׁכֵּן הֵן עַצְמָן קְרֵיבִין לְגַבֵּי מִזְבֵּחַ, צְרִיכִי.

Finally, if one will say: Let the Merciful One not write that blemishes disqualify **a person and** one should **derive** that case **from these** cases, the firstborn animal and sacrificial animals, this suggestion too can be rejected: **What** is notable **about these?** They are notable **in that they themselves are sacrificed upon the altar,** whereas a person is not. Therefore, all three verses **are necessary,** to teach that blemishes disqualify in all these cases.

״יָתֵר עֲלֵיהֶן בְּאָדָם״. מְנָא הָנֵי מִילֵּי? אֲמַר רַבִּי יוֹחָנָן, דְּאָמַר קְרָא: ״כָּל אִישׁ אֲשֶׁר בּוֹ מוּם מִזֶּרַע אַהֲרֹן״ – אִישׁ שֶׁשָּׁוֶה בְּזֶרַע שֶׁל אַהֲרֹן.

§ The mishna teaches that **in addition to those** blemishes that disqualify an animal, there are other blemishes that apply **to a person** despite the fact that they are not actual defects. The Gemara asks: **From where are these matters** derived? **Rabbi Yoḥanan said:** These *halakhot* are derived from **that** which **the verse states:** "**No man among the seed of Aaron the priest who has a blemish** shall come forward to sacrifice the offerings of the Lord made by fire" (Leviticus 21:21). The verse indicates that the priest must be **a man who is equal among the seed of Aaron,** i.e., one whose appearance is similar to the other priests.

Perek **VII**
Daf **43** Amud **b**

HALAKHA

What difference is there…with regard to profaning the Temple service, etc. – מַאי אִיכָּא…מִשּׁוּם אַחוֹלֵי עֲבוֹדָה וכו׳: There are three types of blemishes: Those that disqualify a priest from performing the Temple service and disqualify an animal from being sacrificed; those that disqualify a priest from performing the Temple service but do not disqualify an animal; and those that are not regarded as blemishes by Torah law but nevertheless disqualify a priest from performing the Temple service by rabbinic law due to his condition having the appearance of a blemish. In the case of a priest with a blemish that disqualifies both priests and animals, if he performs the Temple service whether intentionally or unwittingly, he disqualifies the rites he performs. If he performs the rites intentionally he is liable to receive lashes. In the case of any priest with a blemish that disqualifies only a person, if he intentionally performs the Temple service, he is liable to receive lashes but does not disqualify the rites he performs. If the priest who performs the service is disqualified due to the appearance of a blemish, he is not liable to receive lashes and does not disqualify the service with his performance (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 6:5–6, and see Mahari Kurkus there).

מַאי אִיכָּא בֵּין מוּמָא לְשֶׁאֵינוֹ שָׁוֶה בְּזֶרַע שֶׁל אַהֲרֹן? אִיכָּא מִשּׁוּם אַחוֹלֵי עֲבוֹדָה, מוּמָא – מַחֵיל עֲבוֹדָה, דִּכְתִיב: ״מוּם בּוֹ וְלֹא יְחַלֵּל״; שֶׁאֵינוֹ שָׁוֶה בְּזֶרַע שֶׁל אַהֲרֹן – לָא מַחֵיל עֲבוֹדָה.

The Gemara asks: **What** difference **is there between** a priest disqualified from performing the Temple service due to a full-fledged **blemish** that disqualifies both people and animals, and a priest disqualified from performing the Temple service because **he is not equal among the seed of Aaron?** The Gemara responds: **There is** a difference between them **with regard to profaning** the Temple **service.**[H] A priest with a full-fledged **blemish** who performs rites in the Temple **profanes** the **service** he has performed, **as it is written:** "**He has a blemish; that he not profane** My Sanctuaries" (Leviticus 21:23). A priest **who is not equal among the seed of Aaron** does **not profane** the **service** he performs.

מַאי אִיכָּא בֵּין שֶׁאֵינוֹ שָׁוֶה בְּזֶרַע שֶׁל אַהֲרֹן וּמִשּׁוּם מַרְאִית הָעַיִן? אִיכָּא בֵּינַייהוּ עֲשֵׂה.

The Gemara further asks: **What** difference **is there between** a priest disqualified from performing the Temple service because **he is not equal among the seed of Aaron,** e.g., one whose head is pointed, **and** a priest disqualified from performing the Temple service **due to the** mere **appearance of** a blemish,[N] such as one whose eyelashes have fallen out, as stated in the *mishnayot* further on in this chapter? The Gemara responds: **There is** a difference **between them** with regard to the violation of the prohibition, which is stated as **a positive mitzva,** i.e., that priests who are equal shall serve in the Temple. A priest who is not equal among the seed of Aaron who performs the Temple service transgresses this prohibition. By contrast, a priest who is disqualified due to the appearance of a blemish is disqualified by rabbinic law, and he does not transgress a Torah prohibition by performing the Temple service.

NOTES

Due to the appearance of a blemish [*marit ha'ayin*] – מִשּׁוּם מַרְאִית הָעַיִן: These flaws are not actually blemishes, but since they are unpleasant sights it is not fitting for such a person to perform the Temple service (Rashi). Alternatively, the phrase *marit ha'ayin* has its standard meaning, the appearance of a prohibition, as a priest who performs the Temple service with such a flaw looks like a blemished priest performing the rite (*Tziyyunim LaTorah*).

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״כִּילוֹן״ – דְּדָמֵי רֵישֵׁיהּ לְאָבְלָא. ״לַפְתָּא״ – דְּדָמֵי רֵישֵׁיהּ לְגַדְגְּלִידָא דְּלִיפְתָּא. תָּנָא: וְצַוָּארוֹ עוֹמֵד בְּאֶמְצַע רֹאשׁוֹ.

§ The Gemara clarifies the blemishes that the mishna lists as disqualifying a priest: **One whose** head **is pointed** [***kilon***],[HL] this is one **whose head resembles the cover of a barrel,**[N] narrow above and wide below. **One whose** head **is turnip-like,** this is one **whose head resembles the top of a turnip,**[B] wide above and narrow below. The Sages **taught** in a *baraita* another detail relating to this blemish: **And his neck stands in the middle of his head,**[N] i.e., his head protrudes equally in all directions around his neck, whereas a typical person's neck is situated at the back of his head.

״מַקָּבָן״ – דְּדָמֵי רֵישֵׁיהּ לְמַקָּבָן. ״וְשֶׁרְאשׁוֹ שָׁקוּט״ – מִלְּפָנָיו. ״וּסְקִיפָתּ״ – מֵאֲחוֹרָיו, כְּדְאָמְרִי אֵינָשֵׁי שָׁקֵיל פִּיסָא. תָּנָא: וְצַוָּארוֹ שָׁקוּט וְשָׁמוּט. שָׁקוּט – דְּחַבְיָא מִחָבָּא, שָׁמוּט – דַּאֲרִיךְ וְשָׁמוּט.

One whose head **is hammer-like** [***makkavan***], this is one **whose head resembles a hammer,**[N] with his forehead protruding. **And** one **whose** head is **indented** [***shakut***], this is one with a depression **in the front of his** head.[N] **And** one **wherein the back of his head protrudes** [***sekifat***][L] is someone for whom it appears a piece **from the back of his** head[N] has been removed, **as people say: A piece has been taken** [***shakil pisa***]. *Sekifat* is understood to be an abbreviation of that term. The Sages **taught** in a *baraita*: **And** a priest **whose neck is short, or** one whose neck **is narrow,**[H] is disqualified from performing the Temple service as well. A priest with **a short** neck is one **whose** neck **is hidden** and is not visible between his shoulders. A priest with **a narrow** neck is one **whose** neck **is long and narrow.**

״וּבַעֲלֵי חֲטָרוֹת רַבִּי יְהוּדָה״ כּוּ׳. דְּאִית בֵּיהּ עֶצֶם – כּוּלֵּי עָלְמָא לָא פְּלִיגִי דְּפָסְלָא, כִּי פְּלִיגִי דְּלֵית בֵּיהּ עֶצֶם; מָר סָבַר: הָא אֵינוֹ שָׁוֶה בְּזַרְעוֹ שֶׁל אַהֲרֹן, וּמָר סָבַר: קְרוֹרָא דְּבִישְׁרָא בְּעָלְמָא הוּא.

The mishna teaches: **And** with regard to **those with humped** backs, **Rabbi Yehuda** deems them fit for service and the Rabbis deem them disqualified. The Gemara elaborates: In a case **where there is a bone in** his hump, **everyone agrees that** the priest is **disqualified** for Temple service. **They disagree when there is no bone.**[H] One **Sage,** i.e., the Rabbis, **holds** that **this** person **is not equal among the seed of Aaron** and is therefore disqualified from performing the Temple service; **and** one **Sage,** Rabbi Yehuda, **holds** that **it is merely a piece of flesh** and is not considered a blemish.

HALAKHA

One whose head is pointed, etc. – כִּילוֹן וכו׳: These are the blemishes that disqualify a priest from performing the Temple service but do not disqualify an animal from being sacrificed: One whose skull is depressed downward as if it had been pressed with his hand; one wherein the center of his skull is elevated, causing his head to resemble an egg; one wherein the front or back of his head protrudes like a hammer; and one whose head is wide on both sides such that it appears his neck is situated in the center of his head, like a turnip situated on its stalk. The Ra'avad explains the various blemishes mentioned in the Gemara in a different manner (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:1, and see *Kesef Mishne* there).

And a priest whose neck is short or narrow – וְצַוָּארוֹ שָׁקוּט וְשָׁמוּט: A priest whose neck is so low that it appears as if his read rests upon his shoulders, or whose neck is so long that it appears as if his head is distanced from his shoulders, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:2).

Where there is a bone…when there is no bone – דְּאִית בֵּיהּ עֶצֶם...דְּלֵית בֵּיהּ עֶצֶם: A priest with a dislocated vertebra is considered a person with a humped back and is disqualified from performing the Temple service, regardless of the direction in which the dislocated vertebra protrudes. Similarly, one with a flesh growth on his back that resembles a hump is blemished, and he is disqualified from performing the Temple service, even if his vertebrae remain intact (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:10).

LANGUAGE

One whose head is pointed [*kilon*] – כִּילוֹן: According to the Gemara's explanation as well as those of the early commentaries, this is an individual with a pointed head, or with an elongated head that resembles an egg. The Latin word cilo refers to a person whose head appears pressed from the sides and protrudes forward.

One wherein the back of his head protrudes [*sekifat*] – סְקִיפָתּ: Possibly derived from the Greek **σκέπας**, *skepas*, meaning protective cover. This most closely fits the Rambam's explanation that the Gemara is referring to one wherein the back of his skull protrudes outward.

BACKGROUND

The top of a turnip – גַּדְגְּלִידָא דְּלִיפְתָּא: The turnip, *Brassica rapa*, is a root vegetable from the Brassicaceae plant family. Its roots are thick and it is generally spherical.

NOTES

Barrel – אָבְלָא: The translation follows the explanation offered by Rashi, whereby the Gemara is referring to the cover of a barrel, whose top is narrow and resembles a cone. By contrast, in the Rambam's Commentary on the Mishna, it is explained that this refers to the long, narrow vessel used to siphon wine from a barrel. The Rambam also offers an alternative explanation, that the Gemara is referring to a person whose head is elevated in the center in a fashion resembling an egg (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:1). Rav Hai Gaon explains that the Gemara is referring to a hammer.

And his neck stands in the middle of his head – וְצַוָּארוֹ עוֹמֵד בְּאֶמְצַע רֹאשׁוֹ: According to the Rambam, this *baraita* is cited as support for the Gemara's explanation that the mishna is referring to one whose head resembles a turnip. If so, the *baraita* means his neck is situated in the center of his head, just as a turnip is connected to the stalk from its center. Other early commentaries hold that the *baraita* is referring to a separate blemish that has no connection to the turnip-like head mentioned in the mishna (*Tosafot Ḥitzoniyyot*).

Whose head resembles a hammer – דְּדָמֵי רֵישֵׁיהּ לְמַקָּבָן: According to Rashi, this is referring to an individual with a short and round neck. The Rambam claims the Gemara is speaking of one with a protruding forehead. Yet others maintain that this is referring to one whose head protrudes in the front as well as in the back (Rabbeinu Gershom Meor HaGola).

***Shakut* is one with a depression in the front of his head – שֶׁרְאשׁוֹ שָׁקוּט מִלְּפָנָיו:** The translation and elucidation of the Gemara follows the explanation of Rashi. The Rambam appears to hold that this is referring to an individual with a depression in the center of his skull, an explanation in clear contradiction of the Gemara, which specifies that the blemish is situated in the front of his head. It is possible he had a different version of the text of the Gemara. By contrast, Rabbeinu Gershom Meor HaGola explains that the Gemara is referring to a protrusion in the front of the skull (see *Arukh*; see also Rabbi Yitzḥak Tzarfati, cited in *Shita Mekubbetzet* on *Nedarim* 66b). It should be noted that in the first edition of the Rambam's Commentary on the Mishna, the Rambam appears to combine his explanation with that of Rabbeinu Gershom, explaining that the Gemara is referring to one whose forehead protrudes as if resulting from a downward pressure applied to the center of his skull.

***Sekifat* is someone for whom it appears a piece from the back of his head – סְקִיפָתּ מֵאֲחוֹרָיו:** There is a dispute among the early commentaries with regard to whether or not *sekifat* is parallel to *shakut*, with the sole difference being that *sekifat* is situated in the back of the head while *shakut* is in the front. According to Rashi, both blemishes refer to an individual with a depression in his head. The *Shita Mekubbetzet* cites a different version of Rashi, according to which *sekifat* refers to one wherein the back part of his head is pointed. Another version of Rashi is also cited by the *Shita Mekubbetzet*, which states that a *sekifat* refers to one with a back that protrudes beyond his head, causing his head to appear lower than his neck, as if a piece was removed from it. According to the Rambam, *sekifat* refers to one with a protrusion in the back of his head, as opposed to *makkavan*, which refers to a protrusion in the front.

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״הַקֵּרַח פָּסוּל״. אָמַר רָבָא: לֹא שָׁנוּ אֶלָּא שֶׁאֵין לוֹ לְאַחֲרָיו וְיֵשׁ לוֹ לְפָנָיו, אֲבָל יֵשׁ לוֹ לְאַחֲרָיו – כָּשֵׁר, וְכָל שֶׁכֵּן שֶׁיֵּשׁ לוֹ לְאַחֲרָיו וְאֵין לוֹ לְפָנָיו.

§ The mishna teaches that **the *kere'aḥ***, i.e., anyone who does not have a row of hair encircling his head from ear to ear, **is disqualified** from performing the Temple service. **Rava says:** The Sages **taught** that a *kere'aḥ* is disqualified **only if he does not have** a row of hair **in the back** of **his** head **but he has** a row of hair **in the front. But** if **he has** a row of hair both in the front and **in the back,** he is **fit** for performing the Temple service. **And all the more so, when he has** hair **in the back but he does not have in the front**[N] he is fit for performing the Temple service, as this is typical of older men.

וְאִיכָּא דְּמַתְנֵי אַסֵּיפָא: וְאִם יֵשׁ לוֹ – הֲרֵי זֶה כָּשֵׁר. אָמַר רָבָא: לֹא שָׁנוּ אֶלָּא שֶׁיֵּשׁ לוֹ לְאַחֲרָיו וְאֵין לוֹ לְפָנָיו, אֲבָל יֵשׁ לוֹ בֵּין לְאַחֲרָיו בֵּין לְפָנָיו – פָּסוּל, וְכָל שֶׁכֵּן שֶׁיֵּשׁ לוֹ לְפָנָיו וְאֵין לוֹ לְאַחֲרָיו, וּדְאֵין לוֹ כְּלָל – דְּפָסוּל.

And there are those who teach the statement of Rava **with regard to the latter clause** of the mishna: **And if he has** a row of hair, **that** person is **fit** for performing the Temple service. **Rava says:** The Sages **taught** that such a person is fit **only when he has** a row of hair **in the back but he does not have in the front.**[H] **But** if **he has** a row of hair **both in the back and in the front,** he is **disqualified** from performing the Temple service. **And all the more so,** one **who has** a row of hair **in the front and does not have in the back, or** one **who does not have** any hair **at all,** is **disqualified.**

אָמַר רַבִּי יוֹחָנָן: הַקִּרְחָנִין וְהַנְּפָסִין וְהַזְּבִלְגָּנִין – פְּסוּלִין, לְפִי שֶׁאֵינָן שָׁוִין בְּזֶרַע שֶׁל אַהֲרֹן. קִרְחָנִין – תָּנֵינָא! נְפָסִין – תָּנֵינָא!

§ **Rabbi Yoḥanan says: The bald** priests, **and the** priests who are **dwarves, and the** priests with **leaky** eyes,[NH] are **disqualified** from performing the Temple service, **since they are not equal among the seed of Aaron.** The Gemara asks: Why is it necessary for Rabbi Yoḥanan to state this? With regard to **bald** priests, **we learn** in the mishna that they are disqualified. Similarly, with regard to priests who are **dwarves, we learn** in a mishna (45b) that they are disqualified.

זַבְלְגָּנִין אִיצְטְרִיךְ לֵיהּ לְאַשְׁמוּעִינַן, וּמַהוּ דְּתֵימָא מִשּׁוּם מַרְאִית הָעַיִן.

The Gemara responds: **It was necessary for him to teach us** this statement with regard to priests with **leaky** eyes, as the *halakha* with regard to them does not appear in any mishna. **And** furthermore, it was necessary for him to reiterate the *halakha* with regard to bald priests and dwarves **lest you say** they are disqualified only by rabbinic law, **due to the appearance** of a blemish. Rabbi Yoḥanan therefore teaches that they are disqualified by Torah law, as they are not equal among the seed of Aaron.

וְהָא כָּל הֵיכָא דְּאִיכָּא מִשּׁוּם מַרְאִית הָעַיִן אִיתְנְהוּ קָתָנֵי: וְשֶׁנָּשְׁרוּ רִיסֵי עֵינָיו פָּסוּל מִפְּנֵי מַרְאִית הָעַיִן! מַהוּ דְּתֵימָא: תָּנֵי חֲדָא וְהוּא הַדִּין לְכוּלְּהוּ.

The Gemara raises a difficulty: **But anywhere that** a priest is deemed disqualified **due to the appearance** of a blemish, the ***tanna* teaches** this explicitly, e.g., in the mishna on this *amud*: **And one whose eyelashes have fallen out is disqualified** from performing the Temple service, **due to the appearance** of a blemish. The Gemara responds: Rabbi Yoḥanan's statement is necessary, **lest you say** the *tanna* **taught** explicitly in **one** instance that a priest is disqualified due to the appearance of a blemish **but the same is true with regard to all of** those listed after the first clause of the mishna, starting from the case of priests with humped backs. Therefore, Rabbi Yoḥanan teaches that this is not the *halakha*.

וְהָא כָּל הֵיכָא דְּאִיכָּא מִיהַדַּר וּמִיתְנָא, קָא הָדַר וְתָנֵי: וְשֶׁנִּיטְּלוּ שִׁינָּיו – פָּסוּל מִשּׁוּם מַרְאִית הָעַיִן! אֶלָּא לְאַפּוֹקֵי מֵהָא דְּתַנְיָא, דְּתַנְיָא: הַקִּרְחָנִין וְהַנְּפָסִין וְהַזְּבִלְגָּנִין – כְּשֵׁרִים, וְלֹא אָמְרוּ פָּסוּל אֶלָּא מִשּׁוּם מַרְאִית הָעַיִן.

The Gemara persists: **But anywhere that there is** a priest disqualified due to the appearance of a blemish, the *tanna* **repeats and teaches** explicitly that this is the reason. As the *tanna* **repeats and teaches** (44a): **And one whose teeth fell out is disqualified due to the appearance** of a blemish. **Rather,** the reason Rabbi Yoḥanan reiterates the *halakha* with regard to a bald priest and a dwarf is **to exclude that which is taught** in a *baraita*, **as it is taught** in a *baraita*: **The bald** priests, **the dwarves, and the** priests with **leaky** eyes **are fit** for performing the Temple service by Torah law, **and** the Sages **said** they are **disqualified only due to the appearance** of a blemish. Rabbi Yoḥanan therefore teaches that they are disqualified by Torah law, as they are not equal among the seed of Aaron.

מַאן הַאי תַּנָּא? רַבִּי יְהוּדָה הִיא, דְּתַנְיָא, רַבִּי יְהוּדָה אוֹמֵר: ״הַכֹּהֲנִים״ – לְרַבּוֹת הַקִּרְחָנִין.

The Gemara notes: **Who is this *tanna*** who says that such priests are fit by Torah law? **It is Rabbi Yehuda, as it is taught** in a *baraita* that **Rabbi Yehuda says:** When the verse states: "And Aaron's sons, **the priests,** shall lay the pieces" (Leviticus 1:8), this serves **to include the bald** priests in the performance of the Temple service.

NOTES

If he has in the back he is fit…when he has in the back but he does not have in the front – יֵשׁ לוֹ לְאַחֲרָיו כָּשֵׁר...שֶׁיֵּשׁ לוֹ לְאַחֲרָיו וְאֵין לוֹ לְפָנָיו: According to this version of the Gemara, which is accepted by Rashi, there is no dispute between the two versions of Rava's opinion with regard to the fact that a bald person who has a row of hair in the front and back is more unsightly than one with a row of hair in the back alone. The difference between them is that according to the first version such a priest is fit for performing the Temple service, whereas according to the second he is disqualified. The *Shita Mekubbetzet* cites an alternative text of the Gemara, according to which all agree that in Rava's opinion a priest with a row of hair in the front and back is disqualified from performing the Temple service.

The difference between the two versions of Rava's statement is the *halakha* of a completely bald priest. According to the first version, complete baldness is less unsightly than one-sided baldness, and therefore a completely bald priest is fit for performing the Temple service. According to the second version, full baldness is more unsightly, and consequently an entirely bald priest is disqualified from performing the Temple service.

Priests with leaky eyes – זַבְלְגָּנִין: According to Rashi, this refers to one whose eyes constantly emit a liquid discharge. Rabbeinu Gershom Meor HaGola explains similarly that this is a priest with mucus in his eye, although he also cites an alternative explanation that the term refers to one who constantly drools.

HALAKHA

They taught that only when he has hair in the back but he does not have in the front – לֹא שָׁנוּ אֶלָּא שֶׁיֵּשׁ לוֹ לְאַחֲרָיו וְאֵין לוֹ לְפָנָיו: A *kere'aḥ*, i.e., anyone with no hair on his head, is disqualified from performing the Temple service. Similarly, one with only a row of hair in the front of his head that reaches from ear to ear, or one with only a ring of hair around his head, is disqualified from performing the Temple service. But if he has a row of hair that circles around the back of his head from ear to ear he is fit (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:1).

The bald priests, and the priests who are dwarves, and the priests with leaky eyes – הַקִּרְחָנִין וְהַנְּפָסִין וְהַזְּבִלְגָּנִין: Bald priests, priests who are extremely short, and priests whose mouths are loose and constantly drool are disqualified from performing the Temple service. Evidently, the Rambam considers the third blemish mentioned by Rabbi Yoḥanan to be a drooling mouth. Additionally, he does not list these blemishes under the category of conditions that disqualify a priest on account of the appearance of a blemish, indicating that he rules in accordance with the Gemara's explanation of the statement of Rabbi Yoḥanan (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:1, 8, 14, and Mahari Kurkus and *Kesef Mishne* there).

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מתני׳ אֵין לוֹ גְּבִינִין אוֹ אֵין לוֹ אֶלָּא גְּבִין אֶחָד – זֶהוּ ״גִּבֵּן״ הָאָמוּר בַּתּוֹרָה. רַבִּי דּוֹסָא אוֹמֵר: שֶׁגְּבִינִין שׁוֹכְבִין. רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: שֶׁיֵּשׁ לוֹ שְׁנֵי גַבִּין וּשְׁתֵּי שִׁדְרָאוֹת.

MISHNA

If a priest **has no eyebrows,**[H] **or** if **he has only one eyebrow, that is the *gibben* that is stated in the Torah** in the list of blemished priests (see Leviticus 21:20). **Rabbi Dosa says:** A *gibben* is one **whose eyebrows** are so long that they **lie** flat and cover his eyes. **Rabbi Ḥanina ben Antigonus says:** A *gibben* is one **who has two backs and two spines.**

גמ׳ וְ״גִּבֵּן״ דְּאֵין לוֹ מַשְׁמַע? וּרְמִינְהוּ: ״גִּבֵּן״ – שֶׁיֵּשׁ לוֹ גְּבִינִין הַרְבֵּה; אֵין לוֹ גְּבִינִין אוֹ אֵין לוֹ אֶלָּא גְּבִין אֶחָד מִנַּיִן? תַּלְמוּד לוֹמַר: ״אוֹ גִבֵּן״! אֲמַר רָבָא: זֶהוּ מִדְרַשׁ ״אוֹ גִבֵּן״.

GEMARA

The mishna teaches that the *gibben* stated in the Torah is one who lacks eyebrows. The Gemara asks: **But** does ***gibben* mean** one **who does not have** eyebrows? **And** the Gemara **raises a contradiction** from a *baraita*: When it is stated that a priest who is **a *gibben*** is disqualified from performing the Temple service (see Leviticus 21:20), this is referring to one **who has many eyebrows.**[NH] With regard to one **who has no eyebrows or who has only one eyebrow, from where** is it derived that he is disqualified as well? **The** same **verse states: "Or a *gibben*."** Clearly, the disqualification of one lacking eyebrows is not derived from the mention of a *gibben*, but from the term "or." **Rava said** the mishna should be understood as follows: One who has no eyebrows is disqualified, and **this is** derived from **the exposition** of the phrase **"or a *gibben*."**

״רַבִּי דּוֹסָא אוֹמֵר״ כּוּ׳. לְמֵימְרָא דְּחַיֵּי? וְהָא אִיתְּמַר: הַמַּפֶּלֶת בְּרִיָּה שֶׁיֵּשׁ לָהּ שְׁנֵי גַבִּין וּשְׁתֵּי שִׁדְרָאוֹת, וְאָמַר רַב: בְּאִשָּׁה – אֵינוֹ וָולָד, בִּבְהֵמָה – אָסוּר בַּאֲכִילָה!

§ The mishna teaches that **Rabbi Dosa says** a *gibben* is one whose eyebrows are so long that they lie flat and cover his eyes, and Rabbi Ḥanina ben Antigonus says that a *gibben* is one who has two backs and two spines. The Gemara asks: Is this **to say that** a person with two backs and two spines is capable of **living? But it was stated** that the Sages discussed the case of **one who miscarries an entity that has two backs and two spines, and Rav said** that **in** the case of **a woman**[H] who miscarries such an entity, it **is not** considered **an offspring,** as it cannot survive, and therefore she does not have the ritual impurity caused by childbirth, and **in** the case of **an animal** who miscarries, the entity is **prohibited for consumption.**[H]

כְּבָר רָמָא נִיהֲלֵיהּ רַב שִׁימִי בַּר חִיָּיא לְרַב, וַאֲמַר לֵיהּ: שִׁימִי אַתְּ? אֶלָּא בְּשֶׁשִּׁדְרָתוֹ עֲקוּמָה.

The Gemara responds: **Rav Shimi bar Ḥiyya**[P] **already raised this contradiction to Rav,** his grandfather, **and** Rav **said to him:** Are **you** really **Shimi?**[N] Rabbi Ḥanina ben Antigonus is not referring literally to someone with two backs and two spines, **but to** a person **whose spine is crooked,**[HB] causing it to appear as though he has two spines. Such a person can survive but is disqualified from performing the Temple service.

NOTES

One who has many eyebrows – שֶׁיֵּשׁ לוֹ גְּבִינִין הַרְבֵּה: Rashi explains that this is referring to a person with a single eyebrow above both eyes. According to the Rambam, it refers to someone with more than two eyebrows, e.g., one of his eyebrows is divided along its length or width (*Ḥazon Ish*).

Are you really Shimi – שִׁימִי אַתְּ: According to Rashi, Rav asks in bewilderment: Can it be that you, the great sage Shimi, do not know the answer to this question on your own? Alternatively, Rashi explains (*Nidda* 24a) that Rav addressed his grandson Rav Shimi bar Ḥiyya in such a manner out of fondness for him, as if to say: Shimi, you know the answer. Rashi also cites two additional explanations, which he ultimately rejects: Rav was modest and always kept his gaze downward, and as such, did not actually recognize Rav Shimi; or that Rav was chastising Rav Shimi, who was a particularly sharp individual and would badger Rav with questions.

PERSONALITIES

Rav Shimi bar Ḥiyya – רַב שִׁימִי בַּר חִיָּיא: Rav Shimi bar Ḥiyya, a second-generation *amora* in Babylonia, was a grandson of Rav, and it appears he was his preeminent disciple and was much beloved by him. Even during his grandfather's lifetime, Rav Shimi was recognized as a significant Torah scholar. The Talmud records many of his halakhic statements, both those he transmitted in the name of his grandfather and his own. In certain cases Rav Shimi even disagreed with Rav's rulings. Given their close blood relationship, it is understood how in the Gemara here Rav addresses him familiarly.

BACKGROUND

Whose spine is crooked – שֶׁשִּׁדְרָתוֹ עֲקוּמָה:



Crooked spine

HALAKHA

If a priest has no eyebrows – אֵין לוֹ גְּבִינִין: There are multiple blemishes of the eyebrows that disqualify a priest from performing the Temple service: One with no eyebrows at all, which is the *gibben* stated in the Torah, one with only one eyebrow, and one with eyebrows so long that they lie flat and cover his eyes. According to the Rambam, the dispute between the *tanna'im* in the mishna concerns only the definition of the *gibben* stated in the Torah. With regard to the *halakha* in any of these cases, they are in agreement (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:4).

One who has many eyebrows – שֶׁיֵּשׁ לוֹ גְּבִינִין הַרְבֵּה: A priest with more than two eyebrows is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:4).

An entity that has two backs and two spines…in the case of a woman – בְּרִיָּה שֶׁיֵּשׁ לָהּ שְׁנֵי גַבִּין וּשְׁתֵּי שִׁדְרָאוֹת…בְּאִשָּׁה: If a woman gives birth to an entity that has two backs and two spines, the entity is not considered offspring, and the ritual impurity caused by childbirth is not imparted upon her (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 10:11).

In the case of an animal it is prohibited for consumption – בִּבְהֵמָה אָסוּר בַּאֲכִילָה: If one slaughters a kosher animal and finds in its womb an entity with two backs and two spines, that entity is prohibited for consumption, as this is the *shesua* (see Deuteronomy 14:7) the Torah prohibits for consumption (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 1:6; *Shulḥan Arukh*, *Yoreh De'a* 13:6).

Whose spine is crooked – שֶׁשִּׁדְרָתוֹ עֲקוּמָה: A priest with a crooked spine is blemished and is disqualified from performing the Temple service. The *halakha* is in accordance with the opinion of Rabbi Ḥanina ben Antigonus and the explanation of Rav, since the tannaitic dispute concerns only the definition of a *gibben* as mentioned in the Torah (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:10).

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BACKGROUND

Paint – כּוֹחֵל: Painting the eyes refers to placing cosmetics on one's eyes. Its use as a form of beautification is already mentioned in the Bible (Ezekiel 23:40). During the talmudic era, substances would be applied as a healing agent for illnesses of the eyes. In order to apply either cosmetics or balm to the eyes, a brush resembling a small spoon was used.



Tube of eye shadow from the talmudic era

HALAKHA

Those unable to look at the sun – סָכֵי שֶׁמֶשׁ: A priest who squints at the first sign of light or when he wishes to focus his sight on an item is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:6).

His nose retreats…is blocked…droops – חוֹטְמוֹ סוֹלֵד…בּוֹלֵם…נוֹטֶה: A priest whose nose protrudes upward, or whose nose is bent toward one side, or whose nose droops is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:7).

מתני׳ הֶחָרוּם פָּסוּל. אֵיזֶהוּ חָרוּם – הַכּוֹחֵל שְׁתֵּי עֵינָיו כְּאַחַת. שְׁתֵּי עֵינָיו לְמַעְלָה, וּשְׁתֵּי עֵינָיו לְמַטָּה, עֵינוֹ אַחַת לְמַעְלָה וְעֵינוֹ אַחַת לְמַטָּה, רוֹאֶה אֶת הַחָדֵר וְאֶת הָעֲלִיָּיה כְּאֶחָד, סָכֵי שֶׁמֶשׁ, וְהַזּוֹגְדָן, וְהַצַּיָּרָן, וְשָׁנָשְׂרוּ רִיסֵי עֵינָיו – פָּסוּל מִפְּנֵי מַרְאִית הָעַיִן.

MISHNA

The *ḥarum* is disqualified from performing the Temple service. **What is a *ḥarum*?** It is **one who** can **paint**[B] **both of his eyes as one,** with one brushstroke, because he has a sunken nose. If **both of one's eyes** are **above or both of his eyes** are **below;** or if **one of his eyes** is **above and one of his eyes** is **below;** or if both eyes are in the proper place but **he sees** both **the room** on the ground floor **and the upper story as one,** at the same time; and likewise those unable to **look at the sun;**[H] **and one whose eyes are different; and one whose eyes tear constantly,** these are disqualified from performing the Temple service. **And one whose eyelashes have fallen out** is **disqualified** from performing the Temple service **due to the appearance** of a blemish. Unlike the others listed in this mishna, who are disqualified by Torah law, one with this condition is not disqualified by Torah law. Rather, the Sages issued a decree prohibiting a priest with such a condition to perform the Temple service.

גמ׳ תָּנוּ רַבָּנַן: ״חָרוּם״ – שֶׁחוֹטְמוֹ שָׁקוּעַ; חוֹטְמוֹ סוֹלֵד, חוֹטְמוֹ בּוֹלֵם, חוֹטְמוֹ נוֹטֶה, מִנַּיִן? תַּלְמוּד לוֹמַר: ״אוֹ חָרוּם״. רַבִּי יוֹסֵי אוֹמֵר: אֵין חָרוּם אֶלָּא הַכּוֹחֵל שְׁתֵּי עֵינָיו כְּאַחַת. אָמְרוּ לוֹ: הִפְלַגְתָּ,

GEMARA

The Sages taught in a *baraita*: When it is stated that **a *ḥarum*** is considered a blemished priest (Leviticus 21:18), this is referring to a priest **whose nose is sunk.** If **his nose retreats,**[N] i.e., it is very short and contracted upward, or if **his nose** is **blocked,**[N] or if **his nose** is so long that it **droops,**[H] **from where** is it derived that he is considered blemished? **The** same **verse states: "Or a *ḥarum*."** The term "or" serves to include all blemishes of the nose. **Rabbi Yosei says: A *ḥarum* is only one who** can **paint both of his eyes as one. They said to him: You have gone** too **far** in limiting your definition of a *ḥarum*.

NOTES

Retreats – סוֹלֵד: This term generally refers to an item that recoils or retreats. Accordingly, Rabbeinu Gershom Meor HaGola explains that the *baraita* is speaking of one whose nose is contracted upward. This is likely the opinion of Rashi as well, in light of the Old French word he cites in explanation of the term. By contrast, the Rambam explains that the *baraita* is referring to one whose nose is crooked and tilted toward one side.

His nose is blocked – חוֹטְמוֹ בּוֹלֵם: According to Rashi and Rabbeinu Gershom Meor HaGola, this is referring to one whose nostrils are closed. The Rambam maintains the term refers to one with a protrusion in the middle of his nose. Some versions of the Gemara state: *Bolet*, protrudes, instead of *bolem*, blocked, and it is possible the Rambam had this version of the Gemara.

Perek **VII**
Daf **44** Amud **a**

HALAKHA

Even if he does not paint both of his eyes as one – אַף עַל פִּי שֶׁאֵינוֹ כּוֹחֵל שְׁתֵּי עֵינָיו כְּאַחַת: One whose nose is sunken is blemished, even if he is incapable of painting both of his eyes in a single brushstroke. This is the *ḥarum* mentioned in the Torah (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:7).

אַף עַל פִּי שֶׁאֵינוֹ כּוֹחֵל שְׁתֵּי עֵינָיו כְּאַחַת.

״שְׁתֵּי עֵינָיו לְמַטָּה״. מַה ״שְׁתֵּי עֵינָיו לְמַטָּה״? אִילֵימָא, שְׁתֵּי עֵינָיו לְמַעְלָה – דְּחָזֵי לְמַעְלָה, שְׁתֵּי עֵינָיו לְמַטָּה – דְּחָזֵי לְמַטָּה, עֵינוֹ אַחַת לְמַעְלָה וְעֵינוֹ אַחַת לְמַטָּה – דְּחָזְאֵי עֵינוֹ אַחַת לְמַטָּה וְעֵינוֹ אַחַת לְמַעְלָה, הֵיינוּ רוֹאֶה אֶת הַחָדֵר וְאֶת הָעֲלִיָּיה כְּאַחַת!

Rather, **even if he does not paint both of his eyes as one,**[H] any priest with an abnormally sunken nose is considered a *ḥarum*.

§ The mishna teaches that if both of one's eyes are above or **both of his eyes** are **below,** he is disqualified from performing the Temple service. The Gemara asks: **What** does the mishna mean when it mentions a priest wherein **both of his eyes** are **above** or **both of his eyes** are **below? If we say** that the phrase: **Both of his eyes** are **above,** means **that he** constantly **gazes upward,** and the phrase: **Both of his eyes** are **below,** means **that** he constantly **gazes downward,** then the case where **one of his eyes** is **above and one of his eyes** is **below** must similarly mean **that he gazes** with **one of his eyes downward and one of his eyes upward.** But if so, **this is** identical to the next case in the mishna, that one **sees** both **the room** on the ground floor **and the upper story as one.**

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אֶלָּא: שְׁתֵּי עֵינָיו לְמַעְלָה – דְּקָיְימָן לְמַעְלָה, שְׁתֵּי עֵינָיו לְמַטָּה – דְּקָיְימָן לְמַטָּה, עֵינוֹ אַחַת לְמַעְלָה וְעֵינוֹ אַחַת לְמַטָּה – דְּקָיְימִי עֵינוֹ אַחַת לְמַעְלָה וְעֵינוֹ אַחַת לְמַטָּה. וְקָיְימִי כְּסִדְרָן נַמִּי, וְרוֹאֶה אֶת הַחֶדֶר וְאֶת הָעֲלִיָּיה כְּאַחַת.

Rather, the phrase: **Both of his eyes** are **above,**[H] is referring to a case **where** his eyes **are situated above** their normal place, and the phrase: **Both of his eyes** are **below,** is referring to a case **where** his eyes **are situated below** their normal place. Similarly, the case where **one of his eyes** is **above and one of his eyes** is **below** is **where one of his eyes is situated above and one of his eyes** is situated **below. And** the mishna adds that in a case where his eyes **are situated in their** proper **arrangement as well, but he sees the room** on the ground floor **and the upper story as one,** he too is considered blemished.

מְנָא הָנֵי מִילֵּי? דְּתָנוּ רַבָּנַן: ״בְּעֵינוֹ״ – כָּל מַה שֶּׁבְּעֵינוֹ, מִכָּאן אָמְרוּ: שְׁתֵּי עֵינָיו לְמַטָּה, שְׁתֵּי עֵינָיו לְמַעְלָה, עֵינוֹ אַחַת לְמַעְלָה וְעֵינוֹ אַחַת לְמַטָּה, וְרוֹאֶה אֶת הַחֶדֶר וְאֶת הָעֲלִיָּיה כְּאַחַת, אוֹ שֶׁמְּדַבֵּר עִם חֲבֵירוֹ וְאַחֵר אוֹמֵר: ״לִי רוֹאֶה״.

The Gemara asks: **From where are these matters** derived? **As the Sages taught** in a *baraita*: The verse states with regard to blemishes that disqualify priests: "Or a cataract or a *tevallul* in his eye" (Leviticus 21:20). Since it is obvious that a cataract or a *tevallul* can occur only in one's eyes, why does the verse state: In his eye? The term "**in his eye**" indicates that **any** blemish **that is in his eye** disqualifies him from performing the Temple service. **From here** the Sages **stated:** If **both of his eyes** are **below** or **both of his eyes** are **above,** or if **one of his eyes** is **above and one of his eyes** is **below,** or if **he sees the room and the upper story as one, or** if **when he speaks with his friend another** person **says: He is looking at me,** he is blemished and is disqualified from performing the Temple service.

תָּנוּ רַבָּנַן: ״עִוֵּר״ – בֵּין סוּמָא בִּשְׁתֵּי עֵינָיו, בֵּין סוּמָא בְּאַחַת מֵעֵינָיו; חֲרָרוּר וְהַמַּיִם הַקְּבוּעִין מִנַּיִן – תַּלְמוּד לוֹמַר: ״אִישׁ עִוֵּר״.

§ **The Sages taught** in a *baraita*: When it is stated that **a blind man** [*iver*] is disqualified from performing the Temple service (see Leviticus 21:18), this applies **whether** he is **blind in both of his eyes or blind in one of his eyes.** With regard to a priest who cannot see due to **pale spots** on the eye **or** due to **tears** streaming from the eye **that are constant, from where** is it derived that he is disqualified? **The** same **verse states: "A blind man** [***ish iver***]**."** The superfluous word "*ish*" serves to include these conditions as well.

אָמַר רָבָא: לָמָּה לִי דִּכְתַב רַחֲמָנָא ״אִישׁ״ ״עִוֵּר״ ״דַּק״ ״תְּבַלּוּל״ ״בְּעֵינוֹ״? צְרִיכִי, דְּאִי כְּתַב רַחֲמָנָא ״עִוֵּר״ – מְשׁוּם דְּלֵיתְנְהוּ כְּלָל, אֲבָל חֲרָרוּר וְהַמַּיִם הַקְּבוּעִין דְּאִיתְנְהוּ בֵּיהּ – לָא, כְּתַב רַחֲמָנָא: ״אִישׁ״.

Rava says: Why do I need **the Merciful One to write** the terms "**man,**" "**blind,**" "**cataract,**" "***tevallul,***" and "**in his eye**" (Leviticus 21:18, 20)? All these **are necessary, as had the Merciful One written** only "**blind,**" then one might say that a blind person is disqualified **because** his eyes **are not in** their sockets **at all,** i.e., they were enucleated. **But** in the case of a priest with **pale spots** on the eye **or tears** streaming from the eye **that are constant, where** his eyes **are** still **in** their sockets but he cannot see, perhaps he is **not** considered blemished. Therefore, **the Merciful One wrote "man"** to include these conditions as well.

וְאִי כְּתַב רַחֲמָנָא ״אִישׁ״ – מְשׁוּם דְּלָא קָא חָזֵי כְּלָל, אֲבָל מַחְסוֹרֵיְיתָא – לָא, כְּתַב רַחֲמָנָא: ״דַּק״. וְאִי כְּתַב רַחֲמָנָא ״דַּק״ – מְשׁוּם דִּמְחַסְּרָן, אֲבָל מְבַלְבְּלִיתָא – לָא, כְּתַב רַחֲמָנָא: ״תְּבַלּוּל״.

And had the Merciful One written only "**man,**" one might have thought that only total blindness disqualifies a priest, **because he cannot see at all. But** if his condition causes merely **impaired** vision, then he is **not** considered blemished. Therefore, **the Merciful One wrote "cataract"** to include conditions of impaired vision as well. **And had the Merciful One written** only that a priest with **a cataract** is disqualified, it might have been thought that such a priest is disqualified **because** his vision is **impaired. But** if his vision is not impaired but his eyes are **mixed,** i.e., the black and white parts of his eyes are mixed together, then he is **not** disqualified. Therefore, **the Merciful One wrote "*tevallul*."**

וְאִי כְּתַב רַחֲמָנָא ״תְּבַלּוּל״ – מְשׁוּם דְּמִבַּלְבְּלָן, אֲבָל מְשׁוּם מְשַׁנְיוּתָא – לָא, כְּתַב רַחֲמָנָא: ״בְּעֵינוֹ״.

And had the Merciful One written only "***tevallul,***" one might say that this disqualifies a priest **because** his eyes are **mixed. But** the Torah does **not** disqualify a priest **due to a deviation** from normal appearance, e.g., especially large eyes, or eyes situated higher than normal. Therefore, **the Merciful One wrote "in his eye."**

אָמַר רָבָא: הִלְכָךְ, כָּל מֵחֲמַת כֵּהֲיוּתָא – אָתְיָא מֵ״אִישׁ״, מַחְסוֹרֵיְיתָא – מִ״דַּק״, מְבַלְבְּלִיתָא – מִ״תְּבַלּוּל״, מְשַׁנְיוּתָא – מִ״בְּעֵינוֹ״.

In summary, **Rava says: Therefore, all** blemishes of the eyes that disqualify a priest **on account of dimness,** i.e., blindness, **are derived from** the term "**man.**" All blemishes of the eyes that are related to vision **impairment** are derived **from "cataract."** All blemishes that are related to parts of the eye being **intermingled** are derived **from "*tevallul.*"** Finally, the disqualification of **deviations** is derived **from "in his eye."**

HALAKHA

Both of his eyes above, etc. – שְׁתֵּי עֵינָיו לְמַעְלָה וכו׳: A priest whose eyes are situated above or below their normal location, or one of whose eyes is situated asymmetrically, or whose vision is unfocused to the point that he sees the room on the ground floor and the upper story at once, is disqualified from performing the Temple service. The latter blemish is easily recognizable when such a person speaks to his friend and it appears as if his gaze is focused on something else (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:6).

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"סָכֵי שֶׁמֶשׁ". תָּנֵי רַב יוֹסֵף: סָנֵי שֶׁמֶשׁ. "זַגְדָּיִין". מַחֲוֵי רַב הוּנָא: חַד מִדִּידִין וְחַד מִדִּידְהוּ, וְאִיקְפַּד רַב יְהוּדָה.

§ The mishna teaches that those unable to **look at the sun** [***sakhei shemesh***] are disqualified from performing the Temple service. **Rav Yosef taught** that this is a reference to those who **hate the sun** [***sanei shemesh***],[N] i.e., they are incapable of opening their eyes in sunlight. The mishna further states that **one whose eyes are different**[H] is disqualified from performing the Temple service. In order to illustrate this blemish, **Rav Huna**[P] **pointed** with his finger while saying: The term: Different eyes, is referring to an individual wherein **one** of his eyes is like **ours and one** of his eyes is like **theirs.**[N] **And** since Rav Huna was pointing at Rav Yehuda, who had abnormal eyes, **Rav Yehuda**[P] **took offense.**

מֵיתִיבִי: שְׁכַבָנָא – שֶׁגַּבֵּינָיו שׁוֹכְבִים, זַגְדּוּם – אֶחָד שָׁחוֹר וְאֶחָד לָבָן! תָּנָא, כָּל זוּגָא דְּלָא שָׁוֵי לַהֲדָדֵי – "זַגְדּוּם" קָרֵי לֵיהּ.

The Gemara **raises an objection** from a *baraita* to Rav Huna's interpretation of one whose eyes are different: When the Sages taught that a ***shekhavna*** is disqualified from performing the Temple service, they were referring to one **whose eyebrows lie** flat [***shokhvim***] and cover his eyes. When they taught that **one whose eyes are different** [***zagdum***][L] is disqualified, they were referring to a case where **one** of his eyebrows is **black and one** is **white.** The Gemara responds: With regard to **any pair** of limbs **that are not identical to one another,** the ***tanna*** of this *baraita* **calls** them **different.**

"הַצָּרָן". עֵינָיו תְּרוּטוֹת וְצִירָנִיּוֹת, דּוֹמְעוֹת דּוֹלְפוֹת טוֹרְדוֹת.

§ The mishna teaches that **one whose eyes tear constantly**[H] is disqualified from performing the Temple service. The Gemara cites a *baraita* that defines such an individual: **His eyes,** i.e., his eyelids, **droop** and can open only partially, **or** his eyes are **round;**[N] his eyes **tear,** or tears **stream** from his eyes, or tears **flow** intensely[N] from them.

NOTES

Rav Yosef taught that this is a reference to those who hate the sun – תָּנֵי רַב יוֹסֵף סָנֵי שֶׁמֶשׁ: This explanation is possibly based on the word *sikhsukh*, struggle, as such people struggle with sunlight and consequently hate it. According to *Tosafot*, the word *sakhei* in the mishna is to be understood as derived from the word *ḥasukhei*, hidden; that is, sunlight remains hidden from them. Others explain it comes from the word *sekhakh*, covering, i.e., such a person covers his eyes from the sun (*Tiferet Yisrael*).

One is like ours and one is like theirs – חַד מִדִּידִין וְחַד מִדִּידְהוּ: In other words, he has one normal eye and one abnormal eye (Rabbeinu Gershom Meor HaGola). Alternatively, this means a person with one large eye and one small eye, as the eyes of Rav Huna were particularly small while those of Rav Yehuda were particularly large (Rabbeinu Tam).

His eyes droop [*terutot*] or are round [*tziraniyot*] – עֵינָיו תְּרוּטוֹת וְצִירָנִיּוֹת: Rashi explains that *terutot* and *tziraniyot* refer to two degrees of roundness of the eye, i.e., *tziraniyot* are eyes that are even rounder than *terutot*. According to Rabbeinu Gershom Meor HaGola, *terutot* refers to a roundness of the eyes themselves, but *tziraniyot* refers to round eye sockets. By contrast, the text of the Gemara according to the *Arukh* states explicitly that *terutot* is referring to one whose eyelids are partially closed (see Radbaz, explaining Rambam).

His eyes tear, tears stream, or tears flow intensely – דּוֹמְעוֹת דּוֹלְפוֹת טוֹרְדוֹת: According to the Rambam's Commentary on the Mishna, these three terms are all elucidations of *tziran*, which means leaky eyes. The Rambam apparently interprets the first two terms as a single expression referring to one who constantly tears, while the third term is referring to one with discharges constantly oozing from either side of his eye. By contrast, Rashi explains that each successive term is referring to a more severe level of tearing, with the last meaning one whose eyes tear without respite (see Rabbeinu Gershom Meor HaGola). Rabbeinu Gershom Meor HaGola suggests an additional interpretation, that the last term is referring to one who finds it exceedingly difficult to close his eyes. The *Arukh* maintains that the last term means one who constantly blinks.

LANGUAGE

Different [*zagdum*] – זַגְדּוּם: Some opinions maintain this word is a combination of two Greek words: ζυγόν, *zugon*, a pair, and δίς, *dis*, double.

HALAKHA

One whose eyes are different – זַגְדָּיִין: A priest whose eyes appear different from one another, e.g., one is black while the other is of mixed color, or one is large while the other is small, is disqualified from performing the Temple service. Additionally, one whose ears are different from one another, or whose eyebrows are different from one another, or whose eyelashes are different from one another, is disqualified from performing the Temple service. As the Gemara explains, all of these blemishes are included in the category of *zagdum*, any pair of normally identical limbs which in the case of this individual are somehow different from one another (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:3–6).

One whose eyes tear constantly [*hatziran*] – הַצָּרָן: One whose eyes are round and are not stretched on the sides in the manner of normal eyes; or whose eyes tear constantly; or whose eyes emit a discharge, whether from the inner or outer side, is disqualified from performing the Temple service. All of these blemishes are included in the category of *tziran* (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:6 and Radbaz there).

PERSONALITIES

Rav Huna – רַב הוּנָא: One of the great second-generation Babylonian *amora'im*, Rav Huna was most closely associated with his teacher, Rav. Rav Huna was of aristocratic descent and descended from the house of the Exilarchs, but despite his lineage, he lived in abject poverty for many years. Later in life he became wealthy, lived comfortably, and distributed his resources for the public good.

Rav Huna was the greatest of Rav's students, to the extent that Shmuel, Rav's colleague, used to treat him deferentially and direct questions to him. After Rav's death, Rav Huna became the head of the yeshiva of Sura and filled that position for about forty years. His prominence in Torah and his exalted character traits helped make the yeshiva of Sura the preeminent center of Torah for many centuries. Due to Rav Huna's extensive Torah knowledge, *halakha* was almost invariably ruled in accordance with his opinion in disputes with any of his colleagues and contemporaries. The only exception is in monetary matters, where the rulings are in accordance with the opinion of Rav Naḥman.

Rav Huna had many students, some of whom studied exclusively with him; moreover, Rav's younger students remained to study with Rav Huna after Rav's death. Rav Huna's son, Rabba bar Rav Huna, was one of the greatest Sages of the following generation.

Rav Yehuda – רַב יְהוּדָה: Rav Yehuda bar Yeḥezkel, referred to throughout the Talmud simply as Rav Yehuda, was a second-generation Babylonian *amora*. He studied under Rav, and following Rav's death, under Shmuel in Neharde'a. Shmuel recognized his intellectual prowess, as he referred to him as: Sharp one, as well as his extreme piety, as he described Rav Yehuda as not born of a woman.

Rav Yehuda had a tremendous memory and was meticulous about citing halakhic statements in the name of those from whom he heard them. He cited statements in the name of Rav or Shmuel over four hundred times in the Talmud.

Rav Yehuda was known as a lover of Eretz Yisrael. Nevertheless, he held it was prohibited to move there, in accordance with the verse: "They shall be carried to Babylon, and there shall they be, until the day that I remember them" (Jeremiah 27:22). After Shmuel's death, Rav Yehuda established the famed yeshiva in Pumbedita, where he served as its head for forty years. The yeshiva focused on the study of the *halakhot* of damages, as Rav Yehuda believed the main expression of one's piety should be demonstrated through proper conduct toward other people. In his later years, Rav Yehuda became blind.

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תָּנָא: הַזָּדִיר וְהַלּוֹפִין וְהַתָּמִיר. זָוִיר – דְּמָזַוֵּר עֵינֵיהּ, לוֹפִין – דִּנְפִישִׁין זִיפֵּיהּ, תָּמִיר – שֶׁתָּמוּ זִיפִּין. וְהָנֵי גַּבֵּי מוּמִין תָּנוּ לְהוּ? וְהָתְנַן: שֶׁנָּשְׁרוּ רִיסֵי עֵינָיו פָּסוּל מִפְּנֵי מַרְאִית הָעַיִן! לָא קַשְׁיָא, הָא – דְּאִשְׁתְּיוּר גַּרְדּוֹמֵי, הָא – דְּלָא אִשְׁתְּיוּר גַּרְדּוֹמֵי.

The Sages taught in a *baraita*: **The *zadir*, and the *lupin*, and the *tamir*** [H] are disqualified from performing the Temple service. ***Zadir*** is a reference to one **whose eyes are strange.** [N] ***Lupin*** is a reference to one **with an abundance of eyelashes. *Tamir*** is a reference **to one whose eyelashes are depleted.** The Gemara asks: **And** does the *tanna* **teach these** cases together **with** full-fledged **blemishes? But didn't we learn** in the mishna: **One whose eyelashes have fallen out is disqualified** from performing the Temple service **due to the appearance** of a blemish? Clearly, this is not considered an actual blemish. The Gemara answers that it is **not difficult. This** mishna is referring to a case **where the roots** of his eyelashes **remain,** whereas **that** *baraita* is referring to a case **where the roots do not remain.**

מתני׳ עֵינָיו גְּדוֹלוֹת כְּשֶׁל עֵגֶל אוֹ קְטַנּוֹת כְּשֶׁל אַווֹז. גּוּפוֹ גָּדוֹל מֵאֵבָרָיו, אוֹ קָטָן מֵאֵבָרָיו. חוֹטְמוֹ גָּדוֹל מֵאֵבָרָיו אוֹ קָטָן מֵאֵבָרָיו. הַצּוֹמֵם וְהַצּוֹמֵעַ. אֵיזֶהוּ צוֹמֵעַ – כָּל שֶׁאָזְנָיו קְטַנּוֹת, וְהַצּוֹמֵם – כָּל שֶׁאָזְנָיו דּוֹמוֹת לְסְפוֹג. שְׂפָתוֹ הָעֶלְיוֹנָה עוֹדֶפֶת עַל הַתַּחְתּוֹנָה, הַתַּחְתּוֹנָה עוֹדֶפֶת עַל הָעֶלְיוֹנָה – הֲרֵי זֶה מוּם, וְשֶׁנָּשְׁרוּ שִׁינָיו – פָּסוּל מִפְּנֵי מַרְאִית הָעַיִן.

MISHNA

The mishna lists additional blemishes that disqualify a priest from performing the Temple service: If a priest's **eyes are large** [H] **like those of a calf** [B] **or small like those of a goose;** if **his body is** disproportionately **large** relative **to his limbs** [H] **or** disproportionately **small** relative **to his limbs;** if **his nose is** disproportionately **large** relative **to his limbs** [H] **or** disproportionately **small** relative **to his limbs,** he is disqualified. And **the *tzomem* and the *tzome'a*** [H] are also disqualified. **What is a *tzome'a*?** It is **anyone whose ears are small. And** what is **the *tzomem*?** It is **anyone whose ears are similar to a sponge.** [N] If **his upper lip protrudes** [H] **beyond the lower** lip or his **lower** lip **protrudes beyond the upper** lip, **that is a blemish. And one whose teeth fell out** [H] **is disqualified due to the appearance** of a blemish.

גמ׳ אָמַר רַב: מֹשֶׁה רַבֵּינוּ עֶשֶׂר אַמּוֹת הָיָה, שֶׁנֶּאֱמַר: ״וַיִּפְרֹשׂ אֶת הָאֹהֶל עַל הַמִּשְׁכָּן״, מִי פְּרָשׂוֹ – מֹשֶׁה רַבֵּינוּ פְּרָשׂוֹ; וּכְתִיב: ״עֶשֶׂר אַמּוֹת אוֹרֶךְ הַקָּרֶשׁ״.

GEMARA

Rav says: Moses, our teacher, was ten *ammot* tall, **as it is stated: "And he spread the tent over the Tabernacle"** (Exodus 40:19). **Who spread** the tent over the Tabernacle? **Moses, our teacher, spread it, and it is written** with regard to the height of the Tabernacle: **"Ten *ammot* shall be the length of a board"** (Exodus 26:16). Moses must have been at least as tall as the Tabernacle itself for him to have spread the tent over it.

אֲמַר לֵיהּ רַב שִׁימִי בַּר חֲיָיא לְרַב: אִם כֵּן עֲשִׂיתוֹ לְמֹשֶׁה רַבֵּינוּ בַּעַל מוּם, דִּתְנַן: גּוּפוֹ גָּדוֹל מֵאֵבָרָיו אוֹ קָטָן מֵאֵבָרָיו! אֲמַר לֵיהּ: שִׁימִי, בְּאַמָּה שֶׁל קֶרֶשׁ קָאָמַר.

Rav Shimi bar Ḥiyya said to Rav: If so, you have rendered Moses, our teacher, a blemished person, **as we learned** in the mishna: If **one's body is** disproportionately **large** relative **to his limbs or** disproportionately **small** relative **to his limbs,** then he is blemished. A typical person is no more than three arm-lengths [*ammot*] tall, and yet Moses was apparently ten times taller than the length of his own arm. Rav **said to him: Shimi,** when I said that Moses was ten *ammot* tall, I **said** so **in** reference to the **cubit** [*amma*] **of a board** [N] used in the building of the Tabernacle. The limbs of Moses were proportional to the rest of his body, but he was indeed ten cubits tall.

NOTES

Zadir is one whose eyes are strange – זָוִיר דְּמָזַוֵּר עֵינֵיהּ: The correct version of the text appears to be *zadir*, not *zavir*, as appears in some volumes. The strangeness of the eyes is referring either to the fact that his eyes move constantly without ever coming to a rest or that he blinks his eyes constantly (*Shita Mekubbetzet*, citing Rashi). Alternatively, it is an individual with spotted eyes (*Arukh*; see Rabbeinu Gershom Meor HaGola). The Rambam apparently rules in accordance with the latter explanation (see *Kesef Mishne*).

Whose ears are similar to a sponge – שֶׁאָזְנָיו דּוֹמוֹת לְסְפוֹג: According to the *Tosefta* (4:5), a *tzomem* is one whose ears are blocked. Rashi explains that the ears of a *tzomem* are constricted and blocked like a sponge. By contrast, the Rambam maintains that the mishna is referring to one with puffy ears.

in reference to the cubit of a board – בְּאַמָּה שֶׁל קֶרֶשׁ: Rabbeinu Yitzḥak of Paris questions how Moses could have managed to enter the Tabernacle if he was in fact ten cubits tall, since the Tabernacle itself was that height. The Maharal explains that the ten-cubit measurement mentioned in the Gemara is not referring to Moses' physical height but is a statement attesting to his spiritual greatness.

BACKGROUND

One's eyes are large like those of a calf – עֵינָיו גְּדוֹלוֹת כְּשֶׁל עֵגֶל: The average diameter of the eyeball of a human eye is 24 mm. By contrast, the average diameter of a goose iris is 12 mm, while that of a calf is 32 mm.

HALAKHA

The *zadir* and the *lupin* and the *tamir* – הַזָּדִיר וְהַלּוֹפִין וְהַתָּמִיר: A priest whose eyes are strange, i.e., they bulge like the eyes of a leopard and they appear as would the eyes of someone in a fit of intense anger; and one with an abundance of especially thick eyelashes; and one with no eyelashes, are disqualified from performing the Temple service. If the roots of his eyelashes remain intact, he is disqualified due to the appearance of a blemish (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:5–6, 17).

His eyes are large, etc. – עֵינָיו גְּדוֹלוֹת וכו': A priest with especially large eyes like those of a calf or with small eyes like those of a goose is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:6).

His body is large relative to his limbs, etc. – גּוּפוֹ גָּדוֹל מֵאֵבָרָיו וכו': A priest whose body is disproportionate to his limbs is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:14).

His nose is large relative to his limbs, etc. – חוֹטְמוֹ גָּדוֹל מֵאֵבָרָיו וכו': In the case of a priest whose nose is disproportionate to his limbs, he measures his nose with his small finger. If his nose is significantly larger than, or smaller than, his small finger, he is blemished and is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:7).

The *tzomem* and the *tzome'a* – הַצּוֹמֵם וְהַצּוֹמֵעַ: A priest whose ears are especially small, or one with puffy ears that appear like sponges, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:3).

His upper lip protrudes, etc. – שְׂפָתוֹ הָעֶלְיוֹנָה עוֹדֶפֶת וכו': A priest whose upper lip protrudes over his lower lip, or whose lower lip protrudes beyond the upper one, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:8).

Whose teeth fell out – שֶׁנָּשְׁרוּ שִׁינָיו: A priest whose teeth have fallen out is disqualified from performing the Temple service, due to the appearance of a blemish (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:17).

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"חוֹטְמוֹ גָּדוֹל" כּוֹ'. תָּנָא: כְּאֶצְבַּע קְטַנָּה.

The mishna taught that if **one's nose is** disproportionately **large** relative to his limbs or disproportionately small relative to his limbs, he is blemished. The Sages **taught** in a *baraita*: The measure of disproportion is the size **of** one's **small finger.**[N]

"הַצּוֹמֵם וְהַצּוֹמֵעַ". תָּנָא: אַף הַצִּימֵּחַ. לָא הֲווּ יָדְעִי רַבָּנַן מַאי "צִימֵּחַ", שְׁמַעוּ לְהַהוּא טַיָּיעָא דַּהֲוָה קָאָמַר: "מַאן דְּבָעֵי צִימֵּחַ", וְאִישְׁתַּכַּח גַּדְיָא חֲזִיָּא.

§ The mishna also taught that **the *tzomem* and the *tzome'a*** are blemished. The Sages **taught** in a *baraita*: **The *tzime'aḥ*[H] is also** disqualified from performing the Temple service. **The Sages did not know what a *tzime'aḥ*** is. **They heard a certain Arab who was saying: Who wants a *tzime'aḥ*, and it was found** to be **a long-eared goat.**

אָמַר רַב חִסְדָּא: עֵז שֶׁאֵין לָהּ קְרָנַיִם, וְרָחֵל שֶׁיֵּשׁ לָהּ קְרָנַיִם – כְּשֵׁרִים לְגַבֵּי מִזְבֵּחַ.

The Gemara discusses the *halakha* of a *tzomem*, *tzome'a*, and *tzime'aḥ* with regard to animals. **Rav Ḥisda says: A female goat that has no horns and a female lamb that has horns**[H] **are fit for** sacrificing **upon the altar,** i.e., they are not considered blemished, despite the fact that they differ from regular female goats and female lambs.

תַּנְיָא נַמִּי הָכִי: יֵשׁ דְּבָרִים שֶׁהֵן כְּמוּמִין וְאֵינָן כְּמוּמִין, וְשׁוֹחֲטִין עֲלֵיהֶם בַּמִּקְדָּשׁ אֲבָל לֹא בַּמְּדִינָה, וְאֵלּוּ הֵן: עֵז שֶׁאֵין לוֹ קְרָנַיִם, וְרָחֵל שֶׁיֵּשׁ לוֹ קְרָנַיִם, וְהַצִּימֵּחַ וְהַצּוֹמֵם וְהַצּוֹמֵעַ.

The Gemara notes that **this is also taught** in a *baraita*: **There are matters that** appear **like blemishes but they are not** truly **like blemishes, and** one may therefore **slaughter** sacrificial animals **on** account **of them in the Temple,** i.e., they are fit for sacrifice despite these blemishes; **but** if they are firstborn animals, they are **not** permitted for slaughter **in the** rest of the **country** on account of these blemishes, as the unique physical characteristics of these animals are not true blemishes. **And these are** the blemishes: **A female goat that has no horns, and a female lamb that has horns, and the *tzime'aḥ*, and the *tzomem*, and the *tzome'a*.**

אָמַר רַב חִסְדָּא אָמַר אַמֵּימָר: נִטְּלוּ קַרְנֶיהָן וְזִכְרוּתָן עִמָּהֶן – פְּסוּלָה, וְאֵין פּוֹדִין עֲלֵיהֶם; נִטְּלוּ טְלָפֶיהָ וְזִכְרוּתָם עִמָּהֶן – פְּסוּלִין, וְנִפְדִּין עֲלֵיהֶם.

With regard to the horns of an animal, **Rav Ḥisda says** that **Ameimar says:** If **the horns** of an animal **were removed, and their bones,**[N] i.e., the bones inside the horns, were removed **with them,**[H] the animal **is unfit** for sacrifice. **But** even so, **one may not redeem** the animal **on account of** such blemishes, as they are not full-fledged blemishes. But if **the hooves were removed, and their bones,** i.e., the portion of the leg to which the hooves are attached, were removed **with them,**[H] **they are unfit** for sacrifice **and they are** even **redeemed on account of** such blemishes, as they are full-fledged blemishes.

מֵיתִיבִי: נִטְּלוּ קַרְנַיִן וּטְלָפַיִן וְזִכְרוּתָן עִמָּהֶן – פְּסוּלִין וְנִפְדִּין עֲלֵיהֶן! לָא קַשְׁיָא, הָא – דְּאִיתְעֲקוּר אִיתְעֲקוּרֵי, הָא – דְּאִיגּוּם אִיגּוּמֵי.

Rav Ḥisda stated that the removal of a horn and its bone is not considered a full-fledged blemish that enables the animal to be redeemed. The Gemara **raises an objection** from a *baraita*: If **the horns or the hooves** of an animal **were removed, and their** respective **bones** were removed **with them, they are unfit and they are redeemed on account of them.** The Gemara explains that it is **not difficult. This** *baraita* is referring to a case **where** the bone **was** entirely **uprooted,** which is a full-fledged blemish on account of which the animal may be redeemed. **That** statement of Rav Ḥisda is referring to a case **where** the bones **were cut** but were not uprooted entirely.

וּדְאִיגּוּם אִיגּוּמֵי פָּסוּל? וּרְמִינְהוּ: פָּרָה שֶׁקַּרְנֶיהָ וּטְלָפֶיהָ שְׁחוֹרִים – יָגוֹד! תִּרְגְּמָהּ זְעֵירִי: מֵעִילָּוֵי זַכְרוּת.

The Gemara asks: **But** in a case **where** the bones of the animal **were cut,** is the animal even rendered **unfit? And** the Gemara **raises a contradiction** from a mishna (*Para* 2:2): With regard to a red **heifer whose horns and hooves are black,**[H] the *halakha* is that **one should cut** away the black parts so that the heifer remains entirely red. Evidently, cutting away the horns of the heifer does not inflict a blemish upon it. **Ze'eiri interpreted** the mishna as referring to cutting the horn specifically **from above the bone** inside it. In such a case, the heifer is not disqualified. Cutting the bone itself does disqualify the animal.

HALAKHA

***Tzime'aḥ* – צִימֵּחַ:** A priest with drooping ears is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:3).

A female lamb that has horns – רָחֵל שֶׁיֵּשׁ לָהּ קְרָנַיִם: A female animal that has horns is fit for sacrifice, in accordance with the statement of Rav Ḥisda (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:4 and *Kesef Mishne* there).

The horns were removed and their bones were removed with them – נִטְּלוּ קַרְנוֹתָן וְזִכְרוּתָן עִמָּהֶן: In a case where the horns of an animal were removed along with their inner bones, if nothing remains of the bones then the animal is considered blemished. If the animal was a firstborn it may be slaughtered on account of such a blemish (*Tur*). If its horns were cut, even if only part of the inner bones remain attached to the flesh of the animal, then it is neither sacrificed nor redeemed. Rather, it is allowed to graze until it develops a full-fledged blemish (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:4, 8; *Tur*, *Yoreh De'a* 309).

The hooves were removed and their bones were removed with them – נִטְּלוּ טְלָפֶיהָ וְזִכְרוּתָם עִמָּהֶן: If the hooves of an animal were cut along with their inner bones, even if part of those bones remain attached to the flesh of the animal, the animal is rendered blemished. The *Tur* lists this blemish among those blemishes on account of which one may slaughter a firstborn animal even nowadays, when there are no experts in assessing blemishes (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:5; *Tur*, *Yoreh De'a* 309, and see *Beit Yosef*, *Darkhei Moshe*, *Perisha*, and *Baḥ* there).

A red heifer whose horns and hooves are black – פָּרָה שֶׁקַּרְנֶיהָ וּטְלָפֶיהָ שְׁחוֹרִים: If the horns or hooves of a red heifer are black they should be cut (Rambam *Sefer Tahara*, *Hilkhot Para Aduma* 1:5).

NOTES

The size of one's small finger – כְּאֶצְבַּע קְטַנָּה: According to Rashi, the method for determining whether or not one's nose is disproportionately large is by comparing the length of his nose with the nose of another person of comparable size. If his nose is larger than the other's by the size of a small finger, he is blemished. Others explain that one's nose is normally about as long as the length of his small finger. Therefore, if his nose is longer or shorter than his small finger, he is blemished (Rambam).

If the horns were removed and their bones, etc. – נִטְּלוּ קַרְנוֹתָן וְזִכְרוּתָן וכו': The bones of the hooves are considered part of the body of the animal. Consequently, if even a part of those bones are taken along with the hooves, the animal is considered to have a broken limb and is therefore blemished. By contrast, the bones of the horns are not considered part of the body of the animal, as they emerge only after birth (*Ḥazon Ish*).

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מתני׳ דַּדִּין שׁוֹכְבִין כְּשֶׁל אִשָּׁה, כְּרֵיסוֹ צָבֶה, טִיבּוּרוֹ יוֹצֵא, נִכְפֶּה אֲפִילּוּ אַחַת לְיָמִים, רוּחַ קְצָרָה בָּאָה עָלָיו, הַמְאוּשְׁכָּן, וּבַעַל גֶּבֶר.

MISHNA

The mishna lists additional blemishes that disqualify a priest from performing the Temple service: One who has **breasts** so large that they **sag**[H] **like** those **of a woman;** or if **one's belly is swollen** and protrudes; or if **one's navel protrudes;** or if one is **an epileptic,**[HB] **even** if he experiences seizures only **once in** a long **while;**[N] or one **who is afflicted with a melancholy temper;**[B] or **one whose scrotum is** unnaturally **long; or one whose penis is** unnaturally **long** is disqualified from performing the Temple service.

גמ׳ אָמַר רַבִּי אַבָּא בְּרֵיהּ דְּרַבִּי חִיָּיא בַּר אַבָּא: מַשְׁתִּינִין מַיִם בִּפְנֵי רַבִּים וְאֵין שׁוֹתִין מַיִם בִּפְנֵי רַבִּים. וְתַנְיָא נַמִּי הָכִי: מַשְׁתִּינִין מַיִם בִּפְנֵי רַבִּים, וְאֵין שׁוֹתִין מַיִם בִּפְנֵי רַבִּים; וּמַעֲשֶׂה בְּאֶחָד שֶׁבִּיקֵּשׁ לְהַשְׁתִּין מַיִם וְלֹא הִשְׁתִּין, וְנִמְצָא כְּרֵיסוֹ צָבֶה.

GEMARA

The Gemara cites a *halakha* involving a swollen belly. **Rabbi Abba, son of Rabbi Ḥiyya bar Abba, says** that Torah scholars **may urinate in public**[H] and they need not be concerned with issues of modesty, because holding back from urinating causes bodily harm. **But they may not drink water in public,**[HN] as such conduct is unbefitting a Torah scholar. **And this is also taught** in a *baraita*: Torah scholars **may urinate in public, but they may not drink water in public. And there was an incident involving one who sought to urinate, and he did not urinate, and his belly was found to be swollen.**

שְׁמוּאֵל אִיצְטְרִיךְ לֵיהּ בְּשַׁבְּתָא דִּרְגְלָא, נַגְּדוּ לֵיהּ גְּלִימָא. אֲתָא לְקַמֵּיהּ דַּאֲבוּהּ, אֲמַר לֵיהּ: אֶתֵּן לָךְ אַרְבַּע מְאָה זוּזֵי וְזִיל אֲהַדַּר עוֹבָדָא; אוֹתְ – דְּאֶפְשָׁר לָךְ, דְּלָא אֶפְשָׁר לֵיהּ – לִיסְתַּכַּן.

The Gemara relates: It **was necessary for Shmuel**[P] to urinate **on the Shabbat** when everyone came to hear *halakhot* relating **to the** impending **Festival.** In order to afford him privacy, **they spread a sheet for him.** Shmuel then **came before his father,**[P] who **said to him: I will give you four hundred dinars**[N] if you will **go** and **retract** this **incident,** i.e., if you will state publicly that one may not hold back from urinating even at the expense of one's privacy. Since **you** are an important man, **you can** have others spread a sheet around you. But with regard to one **who cannot** have others spread a sheet **for him, should he endanger** himself by seeking privacy? You must therefore teach that one should not hold back from urinating even in public.

HALAKHA

Breasts that sag, etc. – דַּדִּין שׁוֹכְבִין וכו׳: A priest with a swollen belly, or one whose navel protrudes and is not inverted like the navels of other people, or one whose breasts sag like those of a woman is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:9).

Epileptic, etc. – נִכְפֶּה וכו׳: An epileptic priest is disqualified from performing the Temple service, even if he experiences seizures only on rare occasions. Likewise, one with a melancholy temper, whether such a temper is constant or at predictable intervals, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:16).

Torah scholars may urinate in public – מַשְׁתִּינִין מַיִם בִּפְנֵי רַבִּים: It is prohibited for one to relieve oneself in front of others. Nevertheless, when necessary, it is permitted to urinate in public, even during the day, because of the potential harm inherent in delay. A woman should not urinate directly in front of a child, but may urinate if she turns sideways (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 17:31; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 3:12, and see *Magen Avraham* and *Mishna Berura* there).

They may not drink water in public – אֵין שׁוֹתִין מַיִם בִּפְנֵי רַבִּים: A Torah scholar should eat only in his home and at his own table. He should not eat in stores or in the marketplace unless there is a great need, in order that he should not become degraded in the eyes of others (Rambam *Sefer HaMadda*, *Hilkhot Deot* 5:2).

BACKGROUND

Epileptic – נִכְפֶּה: Epilepsy is a condition that is generally accompanied by sudden and unexpected seizures, or by seizures induced by external factors, e.g., flashing lights. There are instances where epileptics may experience seizures according to a particular schedule. Some may also experience seizures only at night while asleep.

Melancholy temper [*ru'aḥ katzra*] – רוּחַ קְצָרָה: The *Arukh* explains this is referring to a condition known as *dimonas*. Others identify this with epilepsy, which in the ancient world was widely attributed to possession by an evil spirit. Still others suggest this is referring to one who experiences shortness of breath associated with various conditions, e.g., of the heart or kidneys. Some explain it is referring to asthma, as *ru'aḥ katzra* can also be translated as: Short of breath.

NOTES

Once in a long while – אַחַת לְיָמִים: According to the Rambam, the mishna is referring even to one whose seizures are separated by long intervals. Others explain this means even one who experiences seizures according to a particular schedule, even if they rarely occur (Rashi; Rabbeinu Gershom Meor HaGola).

But they may not drink water in public – וְאֵין שׁוֹתִין מַיִם בִּפְנֵי רַבִּים: *Tosafot* point out that this statement seems to be contradicted by a statement elsewhere in the Gemara which says a Torah scholar may drink water in public. They resolve the contradiction by suggesting there is a distinction between drinking in public when others are drinking in his company, e.g., during a meal, and drinking in public with no one else joining in. Rabbeinu Tam explains that the Gemara here refers only to particularly scrupulous individuals. Others suggest the Gemara is referring to a prohibition against drinking urine in public, i.e., even though it is generally permitted to drink urine and was indeed done for medicinal purposes, it is nevertheless prohibited to do so in public, as it is repulsive (*Iyyun Ya'akov*).

I will give you four hundred dinars, etc. – אֶתֵּן לָךְ אַרְבַּע מְאָה זוּזֵי וכו׳: According to Rashi, Shmuel's father wanted Shmuel to teach the gathered masses that one should not hold back from urinating even for the sake of privacy. Rabbeinu Gershom Meor HaGola and the Rashba explain that Shmuel's father instructed him to retract his previous actions by urinating in public, in order to make it abundantly clear that this is the *halakha*. Due to the inevitable embarrassment that would result from such behavior, Shmuel's father promised to give him four hundred dinars, an exceptionally large amount of money that typically served as the amount of damages one would be ordered to pay after shaming his friend in public (see *Berakhot* 20a, *Ketubot* 66a, and *Bava Kamma* 90a).

PERSONALITIES

Shmuel – שְׁמוּאֵל: Shmuel was a first-generation *amora* who was born and passed away in Neharde'a. A child prodigy, he was famous not only for his Torah knowledge, but for his secular learning as well. The Gemara is replete with stories of his expertise in such areas as language, medicine, astronomy, and the natural sciences.

Shmuel traveled to Eretz Yisrael to study with the students of Rabbi Yehuda HaNasi. The Gemara records that he treated Rabbi Yehuda HaNasi's eye ailment, and that Rabbi Yehuda HaNasi regretted he was unable to find an opportunity to ordain him. After his return to Babylonia, Shmuel was appointed as one of the judges of the Diaspora community. Together with his colleague, Rav, Shmuel raised the standard of Torah study in Babylonia to a level where thousands of students chose to remain there rather than to travel to Eretz Yisrael to attend the academy there. He viewed Babylonia as second in sanctity to Eretz Yisrael and ruled it was forbidden to leave it to travel to other locations in the Diaspora.

Shmuel was close friends with King Shapur I of Persia, a benevolent monarch who was tolerant of religious diversity in his kingdom. Shmuel lived to an old age, leaving behind two daughters who were famous for their wisdom and their modesty.

The father of Shmuel – אֲבוּהּ דִּשְׁמוּאֵל: This is the important Sage Abba bar Abba, to whom the Gemara generally refers as the father of Shmuel. Abba bar Abba, who traveled extensively as a silk merchant, spent some time in Eretz Yisrael and developed close ties with Rabbi Yehuda HaNasi and his sons.

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מָר בַּר רַב אַשִׁי אִיצְטְרִיךְ אַגּוּדָּא גַּמְלָא, אַשְׁתִּין. אֲמַרוּ לֵיהּ: חֲמָתָךְ קָאָתְיָא! אֲמַר לְהוּ: בְּאוּדְנָהּ.

Mar bar Rav Ashi to urinate while he was walking **on the beams** of **a bridge,** and therefore he **urinated. They said to him: Your mother-in-law is coming.** Mar bar Rav Ashi **said to them:** I would have done this even **in her ear.**[N] Since holding back from urinating would place him in physical danger, he would not care that his mother-in-law was coming and might see him.

וְתֵיפּוֹק לִי מִשּׁוּם עַלָּקָא? בְּשׁוֹתֶת.

The Gemara returns to the incident cited in the *baraita* involving one who held back from urinating and his belly became swollen: **And let me derive,** i.e., can it not be said, that his belly swelled **due to a leech** that entered his intestines? The Gemara responds: The *baraita* is referring to a case **where** his urine would thereafter **drip** and no longer flowed in a healthy manner. Evidently, his health problems resulted from damage to the urinary tract.

תָּנוּ רַבָּנָן: שְׁנֵי נְקָבִים יֵשׁ בּוֹ בָּאָדָם, אֶחָד מוֹצִיא שֶׁתֶּן וְאֶחָד מוֹצִיא שִׁכְבַת זֶרַע, וְאֵין בֵּין זֶה לָזֶה אֶלָּא כְּקִלִּיפַּת הַשּׁוּם; בְּשָׁעָה שֶׁאָדָם נִצְרָךְ, אִם נִקְּבוּ זֶה לְתוֹךְ זֶה – נִמְצָא עָקָר.

Concerning this topic **the Sages taught** in a *baraita*: **There are two orifices in a man. One** of them **expels urine and one** of them **expels semen, and there is only** a partition **about** the thickness of **a garlic peel between them. When a man needs** to urinate and withholds the urine, **if** his urinary duct and seminal duct **were punctured** such that **this** duct leads **into that** one, **he** will be **found** to be **barren,** as his urine will penetrate into his seminal duct.

אָמַר רֵישׁ לָקִישׁ: מַאי דִּכְתִיב ״לֹא יִהְיֶה בְּךָ עָקָר וַעֲקָרָה וּבִבְהֶמְתֶּךָ״? אֵימָתַי לֹא יִהְיֶה בְּךָ עָקָר – בִּזְמַן שֶׁ״בִּבְהֶמְתֶּךָ״.

Reish Lakish says: What is the meaning of that **which is written: "There shall not be male or female barren among you, or among your cattle"** (Deuteronomy 7:14)? It means as follows: **When will there not be a barren** male **among you? At a time that** you act as **among your cattle,** i.e., you urinate when the need arises, without hesitation.

אָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: לֹא יִהְיֶה בְּךָ עָקָר – מִן הַתַּלְמִידִים, וַעֲקָרָה – שֶׁלֹּא תְּהֵא תְּפִלָּתְךָ עֲקוּרָה לִפְנֵי הַמָּקוֹם, אֵימָתַי – בִּזְמַן שֶׁאַתָּה מֵשִׂים עַצְמְךָ כִּבְהֵמָה.

Rabbi Yehoshua ben Levi says, with regard to the same verse, that the phrase **"There shall not be male … barren among you"** means you will not be barren **of students,** as one who leaves behind no students is considered barren. The term **"or female barren"** indicates **that your prayers will not be barren,** i.e., unheard, **before the Omnipresent,**[N] but will be heard by Him. And **when** will they be heard? **At a time when you place yourself** in prayer as **an animal,** with humility.

אָמַר רַב פָּפָּא: לֹא יַשְׁתִּין אָדָם מַיִם לֹא עַל כְּלִי חֶרֶס, וְלֹא עַל מָקוֹם קָשֶׁה; דְּאָמַר רַב: תָּנֵי מְדוֹרֵי דְּבָבֶל מְהַדְּרִי מַיָּא לְעֵין עֵיטָם. אָמַר אַבַּיֵי: הָא אִיתְּתָא לָא תְּקוּם לְהָדְיָא בְּאַנְפֵּי יְנוּקָא, אַגִּיסָא – לֵית לָן בָּהּ.

Rav Pappa says: A person should urinate in Babylonia only on the dust, as it absorbs the urine. He **should not urinate either on an earthenware vessel or on a hard place,** as the urine will not be absorbed and will eventually flow into the underwater rivers. **As Rav says: Those inclines of Babylonia return the water** through underground watercourses **to the Spring of Eitam**[B] in Eretz Yisrael, from which water was taken to the Temple. Additionally, **Abaye says: A woman should not stand openly in front of a child** when she urinates. But if she urinates while turning **sideways, we have no** problem **with it.**

תַּנְיָא, רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: עַמּוּד הַחוֹזֵר – מֵבִיא אָדָם לִידֵי הִדְרוֹקָן, סִילּוֹן הַחוֹזֵר – מֵבִיא אָדָם לִידֵי יֵרָקוֹן. אָמַר רָבָה בַּר רַב הוּנָא, אָמַר רַב קְטִינָא אָמַר רֵישׁ לָקִישׁ: דָּם רָבָּה – שְׁחִין רָבָּה, שִׁכְבַת זֶרַע רָבָּה – צָרַעַת רָבָּה, צוֹאָה רָבָּה – הִדְרוֹקָן רָבָּה, מֵי רַגְלַיִם רָבִין – יֵרָקוֹן רָבָּה.

It **is taught** in a *baraita* that **Rabban Shimon ben Gamliel says: A mass** of feces **that is held back**[H] without being discharged **causes a person** to suffer **from dropsy** [***hidrokan***],[L] while **a stream** of urine **that is held back causes a person** to suffer **from jaundice.**[B] **Rabba bar Rav Huna says** that **Rav Ketina says** that **Reish Lakish says:** If one's **blood** levels **increase** due to not undergoing bloodletting often enough, then **boils** will **increase** on him as well. If one's **semen** levels **increase** due to not engaging in sexual intercourse often enough, then **leprosy** will **increase** on him. If one's **feces** levels **increase** due to not relieving himself enough, **dropsy** will **increase** in him. Finally, if one's **urine** levels **increase** due to not relieving himself enough, then **jaundice** will **increase** as well.

NOTES

In her ear – בְּאוּדְנָהּ: According to Rashi, Mar bar Rav Ashi meant this literally; he would urinate even in her ear, if that were the only place available. Others interpret this statement as an exaggeration, to stress the importance of not holding back from urinating (Rashba). Yet others suggest Mar bar Rav Ashi meant that he would urinate even if his mother-in-law could hear the urine splashing into the river below the bridge (*Ohel Moshe*).

That your prayers will not be barren before the Omnipresent – שֶׁלֹּא תְּהֵא תְּפִלָּתְךָ עֲקוּרָה לִפְנֵי הַמָּקוֹם: Some commentaries interpret this phrase in light of the previous statements of the Gemara: Your prayers for children will be answered when you behave like an animal and urinate when necessary without delay (Rashi; Rabbeinu Gershom Meor HaGola).

BACKGROUND

Spring of Eitam – עֵין עֵיטָם: This is identified with the Etan Spring alongside the third of Solomon's Pools, approximately 3 km southeast of Bethlehem. A long aqueduct, the lower aqueduct, flows from this and other springs for roughly 20 km, winding between the mountains and passing through tunnels until it reaches the Temple Mount. It was responsible for providing water to Jerusalem during many eras. This aqueduct was destroyed at the time of the destruction of the Temple, but it was later restored and again carried water to Jerusalem over the course of many generations. The lower aqueduct was Hasmonean, while the upper one was built later, during the Roman era.



Solomon's Pools

Jaundice – יֵרָקוֹן: Jaundice is a condition associated with a yellowing of the skin and the whites of one's eyes. It is caused by an increase of bilirubin in the blood, which occurs as a result of either an inflammation of the liver, i.e., hepatitis, a blockage of the arteries that excrete bilirubin, or from a severe breakdown of red blood cells.

HALAKHA

A mass of feces that is held back, etc. – עַמּוּד הַחוֹזֵר וכו': If one accidentally entered a bathroom to relieve himself while wearing phylacteries, he should place his hand over them until he releases the first mass of feces, after which he should leave the bathroom and remove his phylacteries. After removing them he should return to the bathroom to finish relieving himself. If he were to hold back the first mass, whether of urine or of feces, he would be apt to afflict himself with potentially dangerous illnesses (Rambam *Sefer Ahava*, *Hilkhot Tefillin UMezuza VeSefer Torah* 4:20; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 43:8).

LANGUAGE

Dropsy [*hidrokan*] – הִדְרוֹקָן: Dropsy is a symptom characterized by swelling, of either the entire body or parts of it. The condition is the result of fluid that collects in body tissue, caused by either a disruption in the blood circulation or cirrhosis of the liver. Due to the collection of fluid, the face of one suffering from dropsy turns a yellowish color.

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״רוּחַ קַצְרִית בָּאָה עָלָיו״. מַאי נִינְהוּ? תָּנָא: רוּחַ בֶּן נְפִלִים בָּאָה עָלָיו.

§ The mishna teaches that one **who is afflicted with a melancholy temper**[N] is disqualified from performing the Temple service. The Gemara asks: **What is this** melancholy temper? **A *tanna* taught: A fallen spirit,** i.e., the spirit of a demon, **has come upon him.**

״הַמְאוּשְׁבָּן וּבַעַל גֶּבֶר״. תָּנָא: מְשׁוּבָּן – בַּבֵּיצִים, וּבַעַל גֶּבֶר – בַּגִּיד. תָּנָא: מְשׁוּבָּן – זֶה הַקַּיָּן, הַגַּרְבְּתָן – זֶה בַּעַל קִיק, קַיָּין – בַּבֵּיצִים, גַּרְבְּתָא – בַּגִּיד.

The mishna also teaches that **one whose scrotum is** unnaturally **long** [*me'ushban*] **and one whose penis is** unnaturally **long** [*ba'al gever*][H] are disqualified from performing the Temple service. The Sages **taught** in a *baraita*: **A *meshuban*** is one **with** exceedingly large **testicles, and a *ba'al gever*** is one **with** an unnaturally long **penis.** Similarly, it is **taught** in a *baraita*: **A *meshuban*, this is** synonymous with **the *kayyan*. The *garbetan*, this is** synonymous with **a *ba'al kik*. A *kayyan*** is one with a condition **of the testicles,** while **a *garbeta*** is one with a condition **of the penis.**

וְעַד כַּמָּה? מַחֲוֵי רַב יְהוּדָה: עַד רְכוּבָהּ. תַּנְיָא, רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: עַד רְכוּבָהּ – פָּסוּל, לְמַעְלָה מִן רְכוּבָהּ – כָּשֵׁר. אִיכָּא דְּאָמְרִי: עַד רְכוּבָהּ – כָּשֵׁר, לְמַטָּה מִן הָרְכוּבָהּ – פָּסוּל.

The Gemara asks: **And how much** is considered too long, which disqualifies the priest from performing the Temple service? **Rav Yehuda pointed** and said: **Until** the **knee.**[N] **It is** likewise **taught** in a *baraita* that **Rabbi Eliezer ben Ya'akov says:** If one's penis reaches **until** his **knee** he is **disqualified** from performing the Temple service. But if it reaches until just **above** his **knee** he remains **fit. Some say** if his penis reaches **until** the **knee** he is **fit,** but if it passes **below the knee** he is **disqualified.**

מתני׳ אֵין לוֹ בֵּיצִים, אוֹ אֵין לוֹ אֶלָּא בֵּיצָה אַחַת, הֲרֵי זֶה ״מְרוֹחַ אָשֶׁךְ״ הָאָמוּר בַּתּוֹרָה. רַבִּי יִשְׁמָעֵאל אוֹמֵר: כָּל שֶׁנִּימּוֹחוּ אֲשָׁכָיו. רַבִּי עֲקִיבָא אוֹמֵר: כָּל שֶׁרוּחַ בְּאֲשָׁכָיו. רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס אוֹמֵר: כָּל שֶׁמַּרְאָיו חֲשׁוּכִין.

MISHNA If **one has no testicles, or** if **he has only one testicle,**[H] **that is** the ***mero'aḥ ashekh* that is stated in the Torah** (see Leviticus 21:20) among the blemishes that disqualify a priest from Temple service. **Rabbi Yishmael says:** A *mero'aḥ ashekh* is **anyone whose testicles were crushed.**[H] **Rabbi Akiva says:** It is **anyone that** has **wind in his testicles,**[B] i.e., they are swollen. **Rabbi Ḥanina ben Antigonus says:** *Mero'aḥ ashekh* does not refer to the testicles; rather, the reference is to **anyone whose appearance** [*marav*] **is** especially **dark** [*ḥashukhin*].[H]

גמ׳ קַשְׁיָא לֵיהּ לְרַבִּי יִשְׁמָעֵאל: הָא ״חֲסַר אָשֶׁךְ״ מִיבָּעֵי לֵיהּ! תָּנֵי: שֶׁנִּמְרְחוּ אֲשָׁכָיו. קַשְׁיָא לֵיהּ לְרַבִּי עֲקִיבָא: הַאי ״מְמֹרוֹחַ אָשֶׁךְ״ מִיבָּעֵי לֵיהּ! תָּנֵי: שֶׁהָרוּחַ בְּאֲשָׁכָיו.

GEMARA The Gemara explains why the *tanna'im* interpret *mero'aḥ ashekh* in different ways. It is **difficult for Rabbi Yishmael:** If *mero'aḥ ashekh* is referring to one who lacks two testicles, then the Torah **should have** stated: ***Ḥasar ashekh,*** lacking a testicle, rather than *mero'aḥ ashekh*. Therefore, he **teaches** that it is referring to one **whose testicles were crushed.** This is **difficult for Rabbi Akiva:** If *mero'aḥ ashekh* means one with crushed testicles, then the Torah **should have** stated: ***Mimro'aḥ ashekh,*** crushed testicles, not *mero'aḥ ashekh*. Therefore, he **teaches** that the Torah is referring to one **who** has **wind in his testicles.**

קַשְׁיָא לֵיהּ לְרַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס: הַאי ״רוּחַ אָשֶׁךְ״ מִיבָּעֵי לֵיהּ! תָּנֵי: שֶׁמַּרְאָיו חֲשׁוּכִין. קָסָבַר: גּוֹרְעִין וּמוֹסִיפִין וְדוֹרְשִׁין.

This is **difficult for Rabbi Ḥanina ben Antigonus:** If *mero'aḥ ashekh* is referring to one with wind in his testicles, then the Torah **should have** stated: ***Ruaḥ ashekh,*** wind in the testicles. Therefore, he **teaches** that the Torah is speaking of anyone **whose appearance is especially dark.** And how does he derive such an interpretation from the verse? **He holds** that the Sages **subtract and add and interpret homiletically.** Accordingly, the *ḥet* of *mero'aḥ* is removed along with the *alef* of *ashekh*. The *ḥet* is added to *ashekh* and the *alef* is added to *mero'aḥ*, and *mero'aḥ ashekh* is rearranged to state: *Marav ḥashukhin*, his appearance is dark.

הֲיֵינוּ כּוּשִׁי! רַבִּי חֲנִינָא בֶּן אַנְטִיגְנוֹס לָא תָּנֵי כּוּשִׁי.

The Gemara asks: But if so, **this is** identical to one whose skin is extremely **black,** and the mishna on 45b explicitly states that such a priest is disqualified from performing the Temple service. The Gemara responds: **Rabbi Ḥanina ben Antigonus** learns from the mishna only that a *mero'aḥ ashekh* is disqualified; he **does not teach** in that mishna the *halakha* that a person with extremely **black** skin is blemished.

מתני׳ מַקִּישׁ בְּקַרְסוּלָיו וּבְאַרְכֻּבוֹתָיו,

MISHNA The mishna lists additional blemishes that disqualify a priest from performing the Temple service: One whose legs are crooked and bend inward, causing him to **knock his ankles or his knees**[H] into each other as he walks,

NOTES

One who is afflicted with a melancholy temper – רוּחַ קַצְרִית בָּאָה עָלָיו: The *Tosefta* (5:1) indicates that a fallen spirit is a separate blemish, not a clarification of a melancholy temper. In fact, there is a version of the Gemara that reads as follows: What is this? It is *nalla*, a spirit of folly, whereas a fallen spirit is a demon spirit, or a spirit of insanity (Rabbeinu Gershom Meor HaGola; see Rashi).

And how much…until the knee – וְעַד כַּמָּה...עַד רְכוּבָהּ: According to Rashi, the Gemara is referring to the length of one's penis. The Rambam seems to indicate that the Gemara is also referring to the size of one's scrotum.

HALAKHA

The *me'ushban* and a *ba'al gever* – הַמְאוּשְׁבָּן וּבַעַל גֶּבֶר: A priest whose scrotum or penis extends until his knees is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:12 and *Kesef Mishne* there).

He has only one testicle – אֵין לוֹ אֶלָּא בֵּיצָה אַחַת: One who has only one testicle is blemished (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:8).

Whose testicles were crushed, etc. – שֶׁנִּימּוֹחוּ אֲשָׁכָיו וכו׳: If one's testicles were crushed, or if one has wind in his testicles, which is the *mero'aḥ ashekh* mentioned in the Torah, he is disqualified from performing the Temple service. The *tanna'im* agree that all the blemishes mentioned in the mishna are in fact disqualifying blemishes. Their disagreement is only with regard to the definition of a *mero'aḥ ashekh* (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:12, and Mahari Kurkus and *Kesef Mishne* there).

Whose appearance is especially dark – שֶׁמַּרְאָיו חֲשׁוּכִין: A priest with especially dark skin is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:15).

Knock his ankles or his knees – מַקִּישׁ בְּקַרְסוּלָיו וּבְאַרְכֻּבוֹתָיו: A priest who knocks his ankles or knees together when he walks is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13).

BACKGROUND

Wind in his testicles – רוּחַ בְּאֲשָׁכָיו: According to the *Tosefta* (5:4), this is synonymous with *keletos*. It would appear that the *Tosefta* is referring to the Latin hernia, which is the same term in English. An inguinal hernia occurs when tissue, such as part of the intestine, protrudes through a weak spot in the abdominal muscles. The protruding intestine can descend into the scrotum, causing swelling.

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BACKGROUND

One whose feet are wide like those of a goose – פַּרְסוֹתָיו רְחָבוֹת כְּשֶׁל אַוָּוז:



Goose's feet

וּבַעַל הַפִּיקִים, הָעִיקֵּל. אֵיזֶהוּ הָעִיקֵּל – כָּל שֶׁהוּא מַקִּיף פַּרְסוֹתָיו וְאֵין אָרְכְּבוֹתָיו נוֹקְשׁוֹת זוֹ לָזוֹ. פִּיקָּה יוֹצֵא מִגּוּדָּלוֹ, עֲקֵיבוֹ יוֹצֵא לַאֲחוֹרָיו, פַּרְסוֹתָיו רְחָבוֹת כְּשֶׁל אַוָּוז,

and a *ba'al happikim,* and **the *ikkel*.** **What is the *ikkel*?** It is **anyone who places his feet together and his knees do not knock into each other,** i.e., he is bowlegged. A priest with **a protuberance emerging** alongside **the thumb of his** hand or the big toe of his foot, or one **whose heel emerges** and protrudes **back** from **his** foot, or one **whose feet are wide like** those **of a goose** are all disqualified from performing the Temple service.

אֶצְבְּעוֹתָיו מְחֻבָּרוֹת זוֹ עַל זוֹ, אוֹ קְלוּטוֹת; לְמַעְלָה עַד הַפֶּרֶק – כָּשֵׁר, לְמַטָּה מִן הַפֶּרֶק וְחֻתָּכָה – כָּשֵׁר. הָיְתָה בָּהּ יְתֶרֶת וְחֻתָּכָה, אִם יֵשׁ בָּהּ עֶצֶם – פָּסוּל, וְאִם לָאו – כָּשֵׁר.

A priest **whose fingers** or toes **are configured one upon the other, or** one whose fingers or toes are **attached,** is likewise disqualified. But if they were attached from **above** the palm of the hand or the bottom of the foot only **until the** middle **joint,** he is **fit.** If they were attached **below the joint,** higher up on the finger or toe, **and he cut** to separate them, he is **fit.** In a case where **there was an extra** finger or toe **on** his hand or foot **and he cut it, if** that extra appendage **contains a bone,** the priest is **disqualified** even after it was cut, **and if** there is **no** bone the priest is **fit.**

יָתֵר בְּיָדָיו וּבְרַגְלָיו שֵׁשׁ וְשֵׁשׁ עֶשְׂרִים וְאַרְבַּע – רַבִּי יְהוּדָה מַכְשִׁיר, וַחֲכָמִים פּוֹסְלִין. הַשּׁוֹלֵט בִּשְׁתֵּי יָדָיו – רַבִּי פּוֹסֵל, וַחֲכָמִים מַכְשִׁירִין.

If there was **an extra** appendage **on his hands and on his feet, six on each** for a total of **twenty-four, Rabbi Yehuda deems** the priest **fit and the Rabbis deem** him **disqualified.** With regard to one **who** is ambidextrous and **has control of both of his hands,** **Rabbi** Yehuda HaNasi **deems** the priest **disqualified,** as his halakhic status is like that of one who is left-handed, **and the Rabbis deem** him **fit.**

HALAKHA

***Ba'al happikim* – בַּעַל הַפִּיקִים:** If the inner part of the ankles of a priest protrude excessively, he is disqualified from performing the Temple service. According to the Ra'avad and Mahari Kurkus, this is the Rambam's interpretation of *ba'al happikim* (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13, and see *Kesef Mishne* there).

***Ikkel* – עִיקֵּל:** A priest with bent calves such that his knees do not touch one another when he places his feet together is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13).

One with a protuberance emerging alongside the thumb of his hand, etc. – פִּיקָּה יוֹצֵא מִגּוּדָּלוֹ וכו': A priest with a protuberance emerging alongside the thumb of his hand or the big toe of his foot is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:11, 13).

One whose heel emerges and protrudes back from his foot – עֲקֵיבוֹ יוֹצֵא לַאֲחוֹרָיו: A priest whose heel emerges and protrudes back from his foot until it appears that his calf extends from the middle of his foot is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13).

One whose feet are wide like those of a goose – פַּרְסוֹתָיו רְחָבוֹת כְּשֶׁל אַוָּוז: A priest whose feet are wide like those of a goose, even if his toes are not attached to one another like a goose, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13).

One whose fingers or toes are configured one upon the other or attached – אֶצְבְּעוֹתָיו מְחֻבָּרוֹת זוֹ עַל זוֹ אוֹ קְלוּטוֹת: A priest whose fingers are configured one upon the other, or if the fingers of his hands or feet are attached until below the joint closest to the palm, is disqualified from performing the Temple service. If his fingers are attached only until that joint, or if he cut them to separate them, he is fit (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:11, 13).

There was an extra finger or toe on it and he cut it – הָיְתָה בָּהּ יְתֶרֶת וְחֻתָּכָה: A priest who has an extra appendage on his hands or feet, even if he has six digits on each hand and foot, is disqualified from performing the Temple service. If he severs the extra digit he is fit, provided the digit had no bone inside it. Even if the digit could not be counted in a row with the other digits, if there was a bone inside it he is disqualified (*Kesef Mishne*). The *Ḥazon Ish* and others disagree with this last ruling, as the Gemara seems to indicate otherwise (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:11–13).

One who has control of both of his hands – הַשּׁוֹלֵט בִּשְׁתֵּי יָדָיו: A priest who is ambidextrous is fit for performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:11).

NOTES

Until the middle joint – עַד הַפֶּרֶק: In talmudic terms, each segment of a finger is called a joint. There are, then, three joints to each finger. The Sages also use the word joint when referring to the actual bonds between each of these segments and those between a finger and the palm of the hand. There are, then, three of these joints as well. The Rambam understands that the mishna is referring to the bonds joining the fingers to the palm. By contrast, Rashi explains that the mishna is referring to the middle bond.

Some commentaries understand the mishna to be referring to the three bone segments in each finger. Accordingly, they explain that Rashi holds that as long as the third bone segment, i.e., the one with a fingernail, remains separated, the priest is fit, even if the fingers are connected to each other by their first two segments (*Ḥazon Ish*; see Mahari Kurkus).

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גמ׳ תָּנוּ רַבָּנַן: ״שֶׁבֶר רֶגֶל״ – אֵין לִי אֶלָּא שֶׁבֶר רֶגֶל, מִנַּיִן לְרַבּוֹת הַקִּישָׁן וְהָעִיקֵּל וְהַקִּילְבָּן? תַּלְמוּד לוֹמַר: ״אוֹ שֶׁבֶר רָגֶל״. תָּנָא: בַּעַל הַקִּיפִּין וְהַשּׁוּפָּנִי. אָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: בַּעַל הַפִּיקִין – שֶׁיֵּשׁ לוֹ כְּסָתוֹת הָרְבֵּה, שׁוּפָּנִי – שֶׁאֵין לוֹ כְּסָתוֹת כָּל עִיקָּר.

GEMARA **The Sages taught** in a *baraita*: From the verse that states: **“Broken-footed”** (Leviticus 21:19), **I have** derived **only** that **a broken leg** disqualifies a priest from performing the Temple service. **From where** do I derive **to include** that **the *kishan,*** i.e., one who knocks his ankles or his knees together; **the *ikkel*; and the *kilvan***[N] are disqualified as well? **The** same **verse states: “Or broken-footed.”** The term “or” serves to include all blemishes of the leg. It was also **taught** in a *baraita*: **A *ba’al hakippin***[NH] **and the *shufnar***[NH] are blemished. **Rabbi Ḥiyya bar Abba says** that **Rabbi Yoḥanan says: A *ba’al happikin*** is one **who has large protuberances**[N] on his leg, while **a *shufnar*** is one **who has no protuberances at all.**

״פִּיקָה יוֹצֵא מִגּוּדָּלוֹ וְעֵקִיבוֹ יוֹצֵא לַאֲחוֹרָיו״. אָמַר רַבִּי אֶלְעָזָר: שׁוֹקוֹ יוֹצֵא בְּאֶמְצַע רַגְלוֹ. ״פַּרְסוֹתָיו רְחָבוֹת כְּשֶׁל אַוָּוז״. אָמַר רַב פָּפָּא: לָא תֵּימָא דְּטְרִיפָה וְלָא סְדִיקָא, אֶלָּא כְּיָון דְּטְרִיפָה אַף עַל גַּב דְּסְדִיקָא.

The mishna teaches that one with **a protuberance emerging** alongside **the thumb of his** hand or the big toe of his foot, **and** one **whose heel emerges** and protrudes **back** from **his** foot are disqualified. **Rabbi Elazar says:** The description: One whose heel emerges and protrudes back from his foot, means **his calf,** i.e., his lower leg, **emerges from the middle** of **his foot.** The mishna also teaches that one **whose feet are wide like** those **of a goose** is disqualified. **Rav Pappa says: Do not say that** this is referring only to one whose feet are entirely like those of a goose, i.e., his feet **are flat and** his toes **are not split. Rather, once** one’s feet **are flat** he is considered blemished, **even though** his toes **are split.**

״אֶצְבְּעוֹתָיו מְחוּבָּרוֹת זוֹ עַל גַּב זוֹ אוֹ קְלוּטוֹת״. תָּנוּ רַבָּנַן: ״שֶׁבֶר יָד״ – אֵין לִי אֶלָּא שֶׁבֶר יָד,

The mishna further teaches that a priest **whose fingers** or toes **are configured one upon the other, or** whose fingers or toes are **attached,** is likewise disqualified from performing the Temple service. But if they were attached from the hand or foot from above the palm of the hand or the bottom of the foot until the middle joint, or if they were attached below the joint, higher up on the finger or toe, and he cut to separate them, he is fit. **The Sages taught** in a *baraita*: The verse states: **“Broken-handed”** (Leviticus 21:19). **I have** derived **only** that **a broken hand** disqualifies a priest.

אֶצְבָּעוֹת מְחוּבָּרוֹת לְמַעְלָה אוֹ קְלוּטוֹת לְמַעְלָה מִן הַפֶּרֶק וְחֻתָּכָן. וְהָאָמְרַתְּ כָּשֵׁר! אֶלָּא: וְלֹא חֻתָּכָן, מִנַּיִן? תַּלְמוּד לוֹמַר: ״אוֹ שֶׁבֶר יָד״.

From where do I derive that if **his fingers** or toes **are configured** one **upon** the other, **or** if they are **attached** from the hand or foot **above the** middle **joint and he cut them**[N] to separate them, that he is disqualified? The Gemara interrupts its citation of the *baraita* to ask: **But didn’t you say** in the mishna that if he separates his fingers he is **fit? Rather,** the *baraita* is referring to a priest whose fingers or toes are attached above the middle joint **and he did not cut them. From where** is it derived that he is disqualified? **The verse states: “Or broken-handed.”**

״הָיְתָה בּוֹ יְתֵרֶת וַחֲתָכָהּ, אִם יֵשׁ בָּהּ עֶצֶם – פָּסוּל, וְאִם לָאו – כָּשֵׁר״. אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: וְהוּא שֶׁנִּסְפֶּרֶת עַל גַּבֵּי הַיָּד.

§ The mishna teaches: In a case where **there was an extra** finger or toe **on** his hand or foot **and he cut it, if** that extra appendage **contains a bone,** the priest is **disqualified** even after it was cut, as he is considered to be missing a limb, **and if not,** the priest is **fit. Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says: And this** is the *halakha* only in a case **where it can be counted along the back of the hand** or foot, i.e., the extra digit is situated in a row with his other fingers or toes. Only in such a situation is an additional appendage considered a distinct limb to the extent that if it contains a bone he is disqualified even after it has been cut away.

NOTES

***Kilvan* – קִילְבָּן:** According to Rashi, a *kilvan* is an individual with a protuberance emerging alongside the thumb of his hand or the big toe of his foot, which is one of the blemishes mentioned in the mishna. Others explain that a *kilvan* is someone who throws his foot back when walking (Rabbeinu Gershom Meor HaGola). Yet others contend that a *kilvan* is an individual with a broken or amputated leg (Rabbi Eliyahu Baḥur), or one with particularly short legs (*Arukh HaShalem*).

***Ba’al hakippin* – בַּעַל הַקִּיפִּין:** Some commentaries emend the text to read *ba’al happikin*, to accord with the line following in the Gemara.

***Shufnar* – שׁוּפָּנִי:** Some maintain that the term *shufnar* is derived from *shafir*, straight, i.e., one who is flat-footed (*Arukh*). The Rambam explains a *shufnar* is one whose foot is straight so that his heel is just as wide as the arch of his foot.



Normal foot on left, foot of a *shufnar* on right

One who has large protuberances – שֶׁיֵּשׁ לוֹ כְּסָתוֹת הָרְבֵּה: Rashi explains that this is referring to one whose ankle bones are extremely large. Others maintain it means one whose feet are particularly fatty in the front and back, and whose arch is considerably higher than normal (*Arukh*; see *Tosafot*). Yet others contend this is referring to an individual with particularly large buttocks (Ra’avad).

Or attached above the middle joint and he cut them – אוֹ קְלוּטוֹת לְמַעְלָה מִן הַפֶּרֶק וְחֻתָּכָן: When the *baraita* states: Above, it is referring to the tips of his fingers, as when one inspects his fingers he raises them up. The mishna calls this: Below, as it is referring to one whose hands are bent downward (see Rashi on the mishna). It should be noted that some versions of the *baraita* state: Below the middle joint.

HALAKHA

***Ba’al hakippin* – בַּעַל הַקִּיפִּין:** A priest whose foot is hollow, i.e., the arch of his foot is so high that it appears as if he is standing on his heels and toes, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13, and see Mahari Kurkus and *Kesef Mishne* there).

***Shufnar* – שׁוּפָּנִי:** If the width of a priest’s foot is the same in the back as in the front, he is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:13, and see Mahari Kurkus and *Kesef Mishne* there).

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HALAKHA

An extra appendage that contains a bone – יְתֵירָה שֶׁיֵּשׁ בָּהּ עֶצֶם: With regard to an extra finger or toe that has a bone but not a nail, if it can be counted in a row with the other digits it is included in the count toward a majority of the limbs of a corpse. If it cannot be counted in a row, by rabbinic law it imparts impurity through contact and by being carried, but not in a tent. The Sages decreed that such an appendage imparts impurity due to a case where the appendage can be counted with the other appendages, where it imparts impurity by Torah law. They did not decree that it imparts impurity in a tent, in order to make a conspicuous marker that this impurity is only by rabbinic law, so that people would not come to burn *teruma* or sacrificial items on account of it (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 2:7).

תָּנוּ רַבָּנַן: יְתֵירָה שֶׁיֵּשׁ בָּהּ עֶצֶם, וְאֵין בָּהּ צִפּוֹרֶן – מְטַמָּא בְּמַגָּע וּבְמַשָּׂא, וּמְטַמָּא בְּאֹהֶל, וְעוֹלָה לְמִנְיַן מֵאָה וְעֶשְׂרִים וַחֲמִשָּׁה. אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: וּבִנְסְפֶּרֶת עַל גַּב הַיָּד.

With regard to extra appendages **the Sages taught:** In the case of **an extra** appendage that was cut from a corpse, **which contains a bone,**[H] then even if **it does not have a nail** it **imparts ritual impurity**[N] both **through contact and by carrying** it, **and it imparts impurity in a tent,** as is the *halakha* with regard to the limb of a corpse. **And** if the extra appendage has no flesh surrounding the bone and therefore does not impart the impurity of a limb from a corpse, it is **included in the count of 125** bones, which constitute a majority of the number of bones in a human being. A majority of bones imparts impurity in a tent, even if there is no flesh on any of them. **Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says: And** it is considered a limb only **when it can be counted along the back of the hand** or foot.

אָמַר רַב חִסְדָּא, דָּבָר זֶה רַבֵּינוּ הַגָּדוֹל אֲמָרוֹ, הַמָּקוֹם יְהֵיֶה בְּעָזְרוֹ: יְתֵירָה שֶׁיֵּשׁ בָּהּ עֶצֶם וְאֵין בָּהּ צִפּוֹרֶן – מְטַמָּא בְּמַגָּע וּבְמַשָּׂא, וְאֵין מְטַמָּא בְּאֹהֶל. אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: וּבְשֶׁאֵינָהּ נִסְפֶּרֶת עַל גַּב הַיָּד.

Rav Ḥisda says: This matter was stated by our great rabbi, Rav, **may the Omnipresent** come **to his assistance. An extra** appendage **that contains a bone and does not have a nail imparts ritual impurity through contact and by carrying, but it does not impart impurity in a tent. Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says: And** it does not impart impurity in a tent only **when it is not counted along the back of the hand** or foot.

אָמַר רַבִּי יוֹחָנָן: עָשׂוּ דִּבְרֵיהֶם כְּדִבְרֵי נְבִיאוּת; מַה נַּפְשָׁךְ, אִי אֵבָר הוּא – בְּאֹהֶל נַמִּי תְּטַמֵּא, וְאִי לָאו אֵבָר הוּא – בְּמַגָּע וּבְמַשָּׂא נַמִּי לָא לִיטַמֵּי!

Rabbi Yoḥanan says: The Sages **rendered their statements** in this case **like statements of prophecy,** i.e., there is no rationale for this *halakha*, as **whichever way you** look at it there is a difficulty: **If** a digit that is not counted with the other digits **is** considered **a limb, it should impart impurity in a tent as well; and if it is not a limb, it also should not impart impurity through contact or by carrying.**

אָמַר רַב הוּנָא בַּר מָנוֹחַ מִשְּׁמֵיהּ דְּרַב אַחָא בְּרֵיהּ דְּרַב אִיקָא: מִשּׁוּם עֶצֶם כַּשְּׂעוֹרָה נָגְעוּ בָּהּ.

Rav Huna bar Manoaḥ said in the name of Rav Aḥa, son of Rav Ika: This appendage imparts impurity through contact and by carrying **because** the Sages **touched upon it,** i.e., issued a ruling concerning it, and determined that the *halakhot* of **a bone** the volume of **a barley grain** apply to it, i.e., it is considered a bone fragment and not a limb. Accordingly, it does not impart impurity in a tent.

רַב פַּפָּא אָמַר: גְּזֵירָה שֶׁאֵינָהּ נִסְפֶּרֶת אַטּוּ נִסְפֶּרֶת. אִי הָכִי, שֶׁאֵינָהּ נִסְפֶּרֶת – בְּאֹהֶל נַמִּי תְּטַמֵּא!

Rav Pappa said: It is a rabbinic **decree** that an appendage **that is not counted** with the other digits imparts impurity[N] through contact and carrying, **due to** a case where the appendage is **counted** with the other digits, in which case it is considered a limb and imparts impurity in a tent. The Gemara raises a difficulty: **If so,** then an appendage **that is not counted should impart impurity in a tent as well.**

עֲבַדוּ רַבָּנַן הֶיכֵּירָא, כִּי הֵיכִי דְּלָא לִישְׁרְפוּ עֲלַיְיהוּ תְּרוּמָה וְקָדָשִׁים.

The Gemara explains: **The Sages implemented a distinction** by decreeing this appendage imparts impurity only through contact and carrying, **in order that** people **will** know that this impurity applies by rabbinic law and not by Torah law. And therefore they will **not** come **to burn *teruma*,** i.e., the portion of produce designated for the priest, **or consecrated** items that have been rendered impure **on** account of this type of impurity, as by Torah law they are ritually pure and may not be burned.

NOTES

An extra appendage that has a bone…imparts ritual impurity, etc. – יְתֵירָה שֶׁיֵּשׁ בָּהּ עֶצֶם...מְטַמָּא וכו׳: The ritual impurity transmitted by a corpse varies in different instances. A limb of any volume imparts impurity through contact with it and by carrying it, as well as in a tent (see *Oholot* 1:7), provided the limb contains flesh, sinews, and bones.

The mishna in *Oholot* delineates 248 limbs in the human body. Additionally, an olive-bulk of flesh imparts impurity through contact, by carrying, and in a tent. By contrast, a bone that contains no flesh transmits impurity only through contact with it and by carrying it, provided the bone is at least the volume of a barley grain. Nevertheless, one-quarter of a *kav* of bones, or bones that constitute a majority of the skeletal structure of the corpse, or a majority of the number of bones, do impart impurity in a tent.

Rav Pappa said, it is a rabbinic decree that an appendage that is not counted imparts impurity, etc. – רַב פַּפָּא אָמַר גְּזֵירָה שֶׁאֵינָהּ נִסְפֶּרֶת וכו׳: According to the *Sefat Emet*, Rav Pappa's response is relevant only in instances where the digit is less than the volume of a grain of barley, but if the bone has the volume of a grain of barley a rabbinic decree is unnecessary. By contrast, *Reshit Bikkurim* explains that according to Rav Pappa, an extra appendage that is not counted with the other digits is not considered part of the body with regard to the impurity imparted by a corpse, nor does it impart impurity as a bone from a corpse, even if it has the volume of a grain of barley. Rather, it is comparable to the hair and nails of a corpse, which do not impart impurity, and the only reason such a digit imparts impurity is due to the rabbinic decree.

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תְּנַן הָתָם: רוֹב בִּנְיָנוֹ וְרוֹב מִנְיָנוֹ שֶׁל מֵת, אַף עַל פִּי שֶׁאֵין בּוֹ רוֹבַע – טְמֵאִין. תָּנוּ רַבָּנַן: אֵיזֶהוּ רוֹב בִּנְיָנוֹ – שְׁנֵי שׁוֹקַיִם וְיָרֵךְ אֶחָד, הוֹאִיל וְרוֹב גּוּבְהוֹ בְּגָדוֹל. אֵיזֶהוּ רוֹב מִנְיָנוֹ – מֵאָה וְעֶשְׂרִים וַחֲמִשָּׁה.

§ With regard to impurity imparted by extra appendages, **we learned** in a mishna **there** (*Oholot* 2:1): **A majority of the** skeletal **structure or a majority of the number** of bones[H] in the corpse of a **dead** person, **even when there is not a quarter** of a *kav* of bones among them, **are impure.** Concerning the ruling of this mishna, **the Sages taught** in a *baraita*: **What is** considered **a majority of the** skeletal **structure** of a corpse? It is **two calves and one thigh, since** this constitutes **a majority of the height of an adult.**[N] **What is** considered **a majority of the number** of bones? **One hundred and twenty-five** bones.

אָמַר לֵיהּ רָבִינָא לְרָבָא: תַּנָּא מִנְיֵנָא אֲתָא לְאַשְׁמוּעִינַן? קָא מַשְׁמַע לָן דִּדְתַנְיָא: חָסֵר שֶׁאֵין בּוֹ אֶלָּא מֵאתַיִם, וְיָתֵר שֶׁיֵּשׁ בּוֹ מָאתַיִם וּשְׁמוֹנִים וְאֶחָד – כּוּלָּן עוֹלִין לְמִנְיַן מֵאָה וְעֶשְׂרִים וַחֲמִשָּׁה; זִיל בָּתַר רוּבָּא דְּאֵינָשֵׁי.

Ravina said to Rava: Is the *tanna* **coming to teach us a number?** It is obvious that as there are 248 bones in the human body, 125 of them constitute a majority. Rava responded: The *tanna* **teaches us** that the *halakha* is **as it is taught** in a *baraita*: With regard to a corpse that **lacks** some bones and **has only** 200 bones, **or** one that has **extra** and **has** 281 bones, **all of them are included in the count of 125.**[H] In other words, whether the number of 125 is in a majority or minority of that particular corpse, this number of bones imparts impurity, as one **follows the majority of people,** and most people have 248 bones.

אָמַר רַבִּי יְהוּדָה אָמַר שְׁמוּאֵל: מַעֲשֶׂה בְּתַלְמִידָיו שֶׁל רַבִּי יִשְׁמָעֵאל שֶׁשָּׁלְקוּ זוֹנָה אַחַת שֶׁנִּתְחַיְּבָה שְׂרֵיפָה לַמֶּלֶךְ, בָּדְקוּ וּמָצְאוּ בָּהּ מָאתַיִם וַחֲמִשִּׁים וּשְׁנַיִם. אָמַר לָהֶם: שְׁמָא בְּאִשָּׁה בְּדַקְתֶּם, שֶׁהוֹסִיף לָהּ הַכָּתוּב שְׁנֵי צִירִים וּשְׁנֵי דְּלָתוֹת!

With regard to the number of limbs or bones in the human body, **Rabbi Yehuda says** that **Shmuel says:** There was **an incident involving the students of Rabbi Yishmael,**[B] **who boiled**[B] the corpse of **a prostitute who was sentenced by the king to** death by **burning,** in order to separate her flesh from her bones. **They examined and found she** had **252** limbs. They were puzzled by their finding, as the Sages say that the human body has only 248 limbs. Shmuel **said to them: Perhaps you examined** the corpse of **a woman, as the verse added to her two hinges and two doors,** for a total of 252 limbs.

תַּנְיָא, רַבִּי אֶלְעָזָר אוֹמֵר: כְּשֵׁם שֶׁצִּירִים לַבַּיִת – כָּךְ צִירִים לָאִשָּׁה, שֶׁנֶּאֱמַר: ״וַתִּכְרַע וַתֵּלֶד כִּי נֶהֶפְכוּ עָלֶיהָ צִרֶיהָ״. רַבִּי יְהוֹשֻׁעַ אוֹמֵר: כְּשֵׁם שֶׁדְּלָתוֹת לַבַּיִת – כָּךְ דְּלָתוֹת לָאִשָּׁה, שֶׁנֶּאֱמַר: ״כִּי לֹא סָגַר דַּלְתֵי בִטְנִי״.

It **is taught** in a *baraita* that **Rabbi Elazar says: Just as a house has hinges** [*tzirim*], **so too, a woman has hinges, as it is stated: "And she bowed herself and brought forth, for her pains** [*tzireha*] **came suddenly upon her"** (1 Samuel 4:19). **Rabbi Yehoshua says: Just as a house has doors, so too, a woman has doors, as it is stated: "Because it did not shut the doors of my womb"** (Job 3:10).

רַבִּי עֲקִיבָא אוֹמֵר: כְּשֵׁם שֶׁמַּפְתֵּחַ לַבַּיִת – כָּךְ מַפְתֵּחַ לָאִשָּׁה, שֶׁנֶּאֱמַר: ״וַיִּפְתַּח אֶת רַחְמָהּ״. לְרַבִּי עֲקִיבָא קַשְׁיָא דְּתַלְמִידֵי רַבִּי יִשְׁמָעֵאל! דִּלְמָא אַיְידֵי דְּזוּטְרָא – אִתַּמּוּחֵי מִתְּמַח.

Rabbi Akiva says: Just as there is **a key to a house, so too,** there is **a key to a woman, as it is stated: "And He opened her womb"** (Genesis 30:22). The Gemara challenges: The incident **involving the students of Rabbi Yishmael,** who found that the woman had only four additional limbs rather than five, i.e., there was no key, poses **a difficulty for Rabbi Akiva.** The Gemara responds: **Perhaps since** it is **small, it dissolved** in the water when they boiled the corpse.

אָמַר רַב: וְכוּלָּן אֵין מְטַמְּאִין בְּאֹהֶל, שֶׁנֶּאֱמַר: ״זֹאת הַתּוֹרָה אָדָם כִּי יָמוּת בְּאֹהֶל״ – דָּבָר הַשָּׁוֶה לְכָל אָדָם.

Rav says: And all of them, i.e., all the limbs found only in a woman, **do not impart impurity in a tent,**[H] **as it is stated: "This is the law: When a person dies in a tent"** (Numbers 19:14), indicating that only **an item that is equal for all people,** male and female, imparts impurity in a tent.

HALAKHA

A majority of the skeletal structure or the majority of the number of bones – רוֹב בִּנְיָנוֹ וְרוֹב מִנְיָנוֹ: The following bones or groups of bones impart impurity like a corpse: The spine, the skull, a majority of the skeletal structure, and a majority of the number of bones. The skeletal structure of a person consists of two calves and two thighs, the ribs, and the spine. A majority of the structure is, e.g., two calves and one thigh. A majority of the total number of bones in the typical human body is 125, and if the corpse comprises at least this amount it imparts impurity. If the corpse has 124 or fewer bones, each imparts impurity individually (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 2:8).

All of them are included in the count of 125 – כּוּלָּן עוֹלִין לְמִנְיַן מֵאָה וְעֶשְׂרִים וַחֲמִשָּׁה: Even if a particular corpse consists of more than, or less than, 248 bones, a majority of the number of bones is always defined as the majority of the number of bones in a typical human being (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 2:8).

All of them do not impart impurity in a tent – כּוּלָּן אֵין מְטַמְּאִין בְּאֹהֶל: The Sages teach that the male body consists of 248 limbs, while that of a woman consists of 251 limbs. Any limb that separates in its entirety from a body, whether from a living person or a corpse, imparts impurity through contact, by being carried, and in a tent, with the exception of the three additional limbs found in a woman's body, which do not impart impurity in a tent (Rambam *Sefer Tahara*, *Hilkhot Tumat Met* 2:7, and see *Kesef Mishne* there).

NOTES

Since this constitutes a majority of the height of an adult – הוֹאִיל וְרוֹב גּוּבְהוֹ בְּגָדוֹל: With regard to a child or baby, as well as a dwarf, their legs are small relative to the rest of their body (see Rashi).

BACKGROUND

An incident involving the students of Rabbi Yishmael – מַעֲשֶׂה בְּתַלְמִידָיו שֶׁל רַבִּי יִשְׁמָעֵאל: Any invasive procedures involving corpses were considered quite unacceptable in the ancient world, with the exception being in the medical centers in Alexandria, where such procedures were performed during the Second Temple era. It would appear that the incident cited in the Gemara occurred there as well (see *Tosefta*, *Nidda* 4:17). The ancient world provided no concrete definition of a limb, so there was no clear quantification of the limbs in the human body. The lone exception is the quantification of the Sages that appears in the Mishna, which was a halakhic necessity for determining what may be considered a majority of a skeletal structure or a majority of the number of bones. Their assessment of the human body was therefore quite remarkable for its time.

Boiled – שָׁלְקוּ: The procedure described in the Gemara, i.e., of boiling a corpse to separate the flesh from the bones, is a rather unique procedure that does not appear in ancient medical books. It became a recognized procedure during the sixteenth century CE, during the era of the physician Vesalius.

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BACKGROUND

The 248 limbs – רְמַ"ח אֵיבָרִים: According to modern medicine, a typical adult human has approximately two hundred bones. Some therefore explain that the standard of 248 limbs refers to the bones of a teenage girl approximately seventeen years old, as the bodies of adolescents contain many pieces of cartilage in the areas around their joints that have not yet hardened into bone. These pieces of cartilage fall away from the bone when boiled, leading to a larger number of bones. In an adult body, after the ossification of the cartilage around the joints, the little bones fuse into a single larger bone, reducing the total number of bones.

אֲמַר לֵיהּ אַבַּיֵי: וּבְאִישׁ לֵיכָּא? וְהָכְתִיב: ״צִירִים אֲחָזוּנִי כְּצִירֵי יוֹלֵדָה״! צִירֵי בָּשָׂר. וְהָכְתִיב: ״אֲדֹנָי בַּמַּרְאָה נָהֲפְכוּ צִירַי״! הָכָא נַמִּי צִירֵי בָּשָׂר. הָכִי נַמִּי מִסְתַּבְּרָא, דְּאִי לָא תֵּימָא הָכִי – מָאתַיִם וְאַרְבָּעִים וּשְׁמֹנָה הֵיכִי מַשְׁכַּחַת לָהּ? לֹא בְּאִישׁ וְלֹא בְּאִשָּׁה!

Abaye said to him: And are there no hinges **in a man? But isn't it written: "Pangs** [*tzirim*] **have taken hold upon me, as the pangs of a woman in travail"** (Isaiah 21:3)? The Gemara responds: The verse is referring specifically to **hinges of flesh,** which are not considered limbs, as they contain no bones. The Gemara persists: **But isn't it written: "My lord, by reason of the vision my pains** [*tzirai*] **come"** (Daniel 10:16)? The Gemara responds: **Here too,** the verse is referring to **hinges of flesh.** The Gemara notes: **So too, it is reasonable** that the hinges of a male are only of flesh, **as if you do not say so,** then as far as the **248** limbs[B] that the Sages stated constitute a human body, **how can you find** them? **Neither in a man nor in a woman.**

Perek **VII**
Daf **45** Amud **b**

NOTES

Gibeonites – נְתִינִי: The Gibeonites were a people who converted to Judaism through an act of trickery during the time of Joshua. Joshua decreed that it is forbidden for them to marry into the Jewish people while there is a Temple, assigning them a status equivalent to *mamzerim*. King David added to this prohibition, decreeing that they may never marry into the Jewish people, as he witnessed their brazenness and cruelty when they sought to hang the seven sons of King Saul and showed no mercy.

״יָתֵר בְּיָדָיו וּבְרַגְלָיו״. אָמַר רַבִּי יִצְחָק: וּשְׁנֵיהֶם מִקְרָא אֶחָד דָּרְשׁוּ: ״וַתְּהִי עוֹד מִלְחָמָה״, וּכְתִיב: ״וַיְהִי אִישׁ מָדוֹן אֲצְבַע יָדָיו וְאֶצְבַּע רַגְלָיו שֵׁשׁ וָשֵׁשׁ״; מָר סָבַר: בִּגְנוּתֵיהּ מִשְׁתָּעֵי, וּמָר סָבַר: בְּשִׁבְחֵיהּ מִשְׁתָּעֵי.

§ The mishna teaches that if one has **an extra** appendage **on his hands and on his feet,** six on each for a total of twenty-four, Rabbi Yehuda deems him fit while the Rabbis disqualify him. **Rabbi Yitzḥak says: And both derived** their opinions **from one verse,** as it is stated with regard to David's war against the Philistines: **"And there was again war** at Gath" (II Samuel 21:20), **and it is** also **written** in that same verse: **"And there was a champion, who had on every hand six fingers, and on every foot six toes,** twenty-four in number." One **Sage,** i.e., the Rabbis, **holds** that the verse **speaks of negative** qualities of the champion, and therefore it may be derived from here that extra appendages are blemishes; and one **Sage,** Rabbi Yehuda, **holds** that the verse **speaks in his praise,** which means that extra appendages are not blemishes at all.

אָמַר רַבָּה: מַה לִּי דִּכְתִיב ״שֵׁשׁ וָשֵׁשׁ עֶשְׂרִים וְאַרְבַּע מִסְפָּר״? צְרִיכִי, דְּאִי כְּתַב רַחֲמָנָא ״שֵׁשׁ וָשֵׁשׁ״, הֲוָה אָמֵינָא: שִׁית דִּידֵיהּ וְשִׁית דְּכַרְעֵיהּ – כְּתַב: ״עֶשְׂרִים וְאַרְבַּע״, וְאִי כְּתַב ״עֶשְׂרִים וְאַרְבַּע״, הֲוָה אָמֵינָא: הוּא חֲמֵשׁ מֵהַאי גִּיסָּא וְשֵׁבַע מֵהַאי גִּיסָּא – כְּתַב: ״שֵׁשׁ וָשֵׁשׁ״. ״מִסְפָּר״ – בִּנְסִפֶּרֶת עַל גַּבֵּי הַיָּד.

With regard to that verse, **Rabba says: Why do I** need that **which is written** in the verse: "On every hand **six** fingers, **and** on every foot **six** toes, **twenty-four in number"?** Isn't it obvious that one who has six appendages on each limb will have twenty-four in total? Rabba explains: All of these details **are necessary, as, had the Merciful One written** only **six and six, I would say** there were **six of his hand and six of his foot,** i.e., he had only twelve appendages. Therefore, the Merciful One **wrote "twenty-four." And had** the Merciful One **written** only **"twenty-four," I would say** he had **five** fingers **on this side and seven** fingers **on that side.** Therefore, the verse **wrote six and six.** The verse concludes with the term **"in number" to** indicate that these fingers **were counted** in a single row **on the back of the hand.**

תָּנְיָא, אָמַר רַבִּי יְהוּדָה: מַעֲשֶׂה בְּאָדָם אֶחָד שֶׁבָּא לִפְנֵי רַבִּי טַרְפוֹן, יָתֵר בְּיָדָיו וּבְרַגְלָיו שֵׁשׁ וָשֵׁשׁ עֶשְׂרִים וְאַרְבַּע, אָמַר לוֹ: כְּמוֹתְךָ יִרְבֶּה בְּיִשְׂרָאֵל! אָמַר לוֹ רַבִּי יוֹסֵי: מִשָּׁם רְאָיָה? כָּךְ אָמַר לוֹ: כְּמוֹתְךָ יִתְמַעֲטוּ מַמְזֵירֵי וּנְתִינֵי מִיִּשְׂרָאֵל.

With regard to the dispute concerning whether or not extra appendages are a blemish, it **is taught** in a *baraita* that **Rabbi Yehuda says:** There was **an incident involving one man who came before Rabbi Tarfon,** and he had **extra** appendages **on his hands and on his feet, six and six,** for a total of **twenty-four** appendages. Rabbi Tarfon **said to him: There should increase among the Jewish people** those that are **like you,** i.e., strong men. Clearly, extra appendages are not a blemish but a praiseworthy condition. **Rabbi Yosei said to** Rabbi Yehuda: You seek to bring **a proof from there? This** is what Rabbi Tarfon actually **said to him:** All ***mamzerim* and Gibeonites**[N] **should be like you,** i.e., physically weak, so that **they should decrease from the Jewish people.**

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"הַשּׁוֹלֵט בִּשְׁתֵּי יָדָיו". תָּנוּ רַבָּנָן: אִישֵׁר, בֵּין בַּיָּד בֵּין בָּרֶגֶל – פָּסוּל. הַשּׁוֹלֵט בִּשְׁתֵּי יָדָיו – רַבִּי פּוֹסֵל וַחֲכָמִים מַכְשִׁירִין. מָר סָבַר: כְּחִישׁוּתָא אַתְחֲלָא בִּימִין, וּמָר סָבַר: בְּרִיּוּתָא אַתְחֲלָא בִּשְׂמֹאל.

§ The mishna teaches that in the case of a priest **who has control of both of his hands,** i.e., he is ambidextrous, Rabbi Yehuda HaNasi deems him disqualified and the Rabbis deem him fit. With regard to this dispute **the Sages taught** in a *baraita*: One whose **left** side is dominant,[H] **whether** his left **hand or** his left **foot,**[N] is **disqualified**[N] from performing the Temple service. Furthermore, in the case of **one who has control of both of his hands, Rabbi** Yehuda HaNasi **deems** him **disqualified and the Rabbis deem** him **fit.** The Gemara explains this dispute: One **Sage,** Rabbi Yehuda HaNasi, **holds** that he learned to control his left hand because **a weakness began in** his **right** hand. He is therefore disqualified, as his right hand is weak. **And** one **Sage,** i.e., the Rabbis, **holds** that **a strength began in** his **left** hand that allowed him to control both hands. Nevertheless, his right hand remains strong.

מתני׳ הַכּוּשִׁי, הַגִּיחוֹר, וְהַלַּבְקָן, וְהַקִּפֵּחַ, וְהַנַּנָּס, וְהַחֵרֵשׁ, וְהַשּׁוֹטֶה, וְהַשִּׁכּוֹר, וּבַעֲלֵי נְגָעִים טְהוֹרִים – פְּסוּלִין בָּאָדָם וּכְשֵׁרִים בִּבְהֵמָה. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: שׁוֹטֶה מִן הַבְּהֵמָה אֵינָהּ מִן הַמּוּבְחָר. רַבִּי אֶלְעָזָר אוֹמֵר: אַף בַּעֲלֵי הַדַּלְדּוּלִין – פְּסוּלִין בָּאָדָם וּכְשֵׁרִין בַּבְּהֵמָה.

MISHNA Concerning **the *kushi*, the *giḥor*, the *lavkan*,**[HL] **the *kipe'aḥ*, the dwarf,**[H] **the deaf-mute, the imbecile,**[H] **the drunk, and** those **with ritually pure marks,**[H] their conditions **disqualify a person** from performing the Temple service **and are valid,** i.e., they do not disqualify with regard to being sacrificed, **in** the case of **an animal. Rabban Shimon ben Gamliel says: An imbecile among animals is not optimal** for sacrifice. **Rabbi Elazar says: Even** with regard to those **with** flesh or skin that **hangs**[NH] from their body, that blemish **disqualifies in** the case of **a person and is valid in** the case of **an animal.**

גמ׳ כּוּשִׁי – אוּכְמָא, גִּיחוֹר – חִיוָּרָא, לַבְקָן – סוּמָקָא. אִינִי? וְהָא הַהוּא דַּאֲמַר לְהוּ: "מַאן בָּעֵי לוּקְיָאנִי", וְאִישְׁתַּכַּח חִיוָּרָא! אֶלָּא: כּוּשִׁי – אוּכְמָא; גִּיחוֹר – סוּמָקָא, כִּדְאָמְרִי אֱינָשֵׁי: "סוּמָקָא גִּיחְיָא"; לַבְקָן – חִיוָּרָא, כְּהַהוּא דַּאֲמַר לְהוּ: "מַאן בָּעֵי לוּקְיָאנִי", וְאִישְׁתַּכַּח חִיוָּרִי.

GEMARA The mishna teaches that a *kushi*, a *giḥor*, and a *lavkan* are disqualified. The Gemara explains: **A *kushi*** is one whose skin is extremely **black, a *giḥor*** is one whose skin is extremely **white,** and a ***lavkan*** is one whose skin is extremely **red.** The Gemara asks: **Is that so? But** there was **a certain** person **who said to** others: **Who wants a *lukiyani*** lamb, **and** the lamb **was found** to be **white. Rather, a *kushi*** is one whose skin is extremely **black; a *giḥor*** is one whose skin is extremely **red, as people say** about one whose skin is extremely red: ***Giḥia* red;** and **a *lavkan*** is one whose skin is extremely **white, as** in the case of **that person who said: Who wants a *lukiyani*, and it was found** to be **white.**

"קִפֵּחַ". תָּנֵי רַב זְבִיד: גָּבוֹהַּ. אִינִי? וְהָתָנֵי רַבִּי אַבָּהוּ: מִנַּיִן שֶׁהַקָּדוֹשׁ בָּרוּךְ הוּא מִשְׁתַּבֵּחַ בִּבַעֲלֵי קוֹמָה? שֶׁנֶּאֱמַר: "וְאָנֹכִי הִשְׁמַדְתִּי אֶת הָאֱמֹרִי מִפְּנֵיהֶם אֲשֶׁר כְּגֹבַהּ אֲרָזִים גָּבְהוֹ"! אָמַר רַב פַּפָּא: בַּאֲרִיכָא שְׁמִיטָה סָנְיָא.

§ The mishna teaches that a ***kipe'aḥ*** is disqualified. **Rav Zevid taught** that this is referring to one who is extremely **tall.** The Gemara asks: **Is that so,** that one who is tall is considered blemished? **But didn't Rabbi Abbahu teach: From where** is it derived **that the Holy One, Blessed be He, is praised through** His destruction of **those of stature? As it is stated: "Yet I destroyed the Amorite before them, whose height was like the height of the cedars"** (Amos 2:9). **Rav Pappa said** in response: The mishna is not referring to one who is tall and has a healthy build, but to one who is **long, emaciated,** and **ugly.**

HALAKHA

One whose left side is dominant – אִישֵׁר: A left-handed or left-footed priest is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:11, 13).

The *kushi*, the *giḥor*, and the *lavkan* – הַכּוּשִׁי הַגִּיחוֹר וְהַלַּבְקָן: One whose skin is extremely black, or red like scarlet, or pale like cheese, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:15).

The *kipe'aḥ* and the dwarf – הַקִּפֵּחַ וְהַנַּנָּס: One who is extremely tall or extremely short, to the point that he is noticeably different from everyone else, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:14).

The deaf-mute and the imbecile – הַחֵרֵשׁ וְהַשּׁוֹטֶה: A priest who is a deaf-mute or an imbecile is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:16).

Those with ritually pure marks – בַּעֲלֵי נְגָעִים טְהוֹרִים: A priest with ritually pure marks, whether those spots are natural occurrences, e.g., a *bohak*, or they were caused by external factors, e.g., a burn, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:15).

Those with flesh or skin that hangs – בַּעֲלֵי הַדַּלְדּוּלִין: One whose skin and flesh hang from his body, or for whom the moisture from his skin hangs from his body, is disqualified from performing the Temple service (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 8:15).

LANGUAGE

***Lavkan* – לַבְקָן:** *Lavkan* is derived from the Greek λευκόν, *leukon*, white. It would seem that this is referring to an albino, an individual born with a pigmentation deficiency in the skin, hair, and eye tissue.

NOTES

Left-footed – אִישֵׁר…בָּרֶגֶל: According to Rashi, this is referring to one who lifts his left foot first when beginning to walk, a manner different from most people (see *Yoma* 11b). Some later commentaries write that there is no blemish in beginning to walk with one's left leg, and explain that Rashi is referring to one whose right leg is weak to the point that he moves forward by placing his left foot forward and then dragging his right foot toward his left one (see *Ḥatam Sofer*, *Even HaEzer*, vol. 2, responsum 91).

One whose left side is dominant…is disqualified – אִישֵׁר…פָּסוּל: There are two basic opinions with regard to the nature of this disqualification. The first is that sacrificial rites must be performed with the right hand, and neither hand of a left-handed priest is considered a right hand for this purpose. His right hand is weak and his strong hand is on his left (Ramban on *Ḥullin* 92b, explaining Rashi). The second opinion is that one with a weak right hand or leg is blemished, as he is not equal among the seed of Aaron (see Ramban, citing *Tosafot*, and Rashi on *Shabbat* 93b).

There is a practical difference between these opinions in a case where a left-handed priest performed a rite: According to the first opinion the rite is profaned, as he did not perform the rite with his right hand, whereas according to the second opinion the rite is not profaned after the fact (see 43b). There are also differences with regard to other *halakhot*, e.g., *ḥalitza* (see *Tur*, *Even HaEzer* 169 and *Beit Yosef* there).

Those with flesh or skin that hangs – בַּעֲלֵי הַדַּלְדּוּלִין: According to Rashi, this refers to one with pieces of flesh dangling from his body. Others explain that it means one whose skin is loose and hangs to the point that it appears as though his skin contains pockets (Rambam). Yet others suggest that it refers to an individual with round calluses protruding from his hands (*Arukh*).

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אָמַר רֵישׁ לָקִישׁ: גָּבוֹהַּ לֹא יִשָּׂא גְּבוֹהִית – שֶׁמָּא יֵצֵא מֵהֶן תִּינוֹק, נַנָּס לֹא יִשָּׂא נַנֶּסֶת – שֶׁמָּא יֵצֵא מֵהֶם אֶצְבָּעִי, לָבָן לֹא יִשָּׂא לְבָנָה – שֶׁמָּא יֵצֵא מֵהֶם בּוֹהֵק, שָׁחוֹר לֹא יִשָּׂא שְׁחוֹרָה – שֶׁמָּא יֵצֵא מֵהֶן טָפִוחַ.

Reish Lakish says: A man who is **tall should not marry** a woman who is also **tall, lest** there **emerge from them** a child who is **extremely tall.** Similarly, a man who is **a dwarf should not marry** a woman who is also **a dwarf, lest** there **emerge from them** a child who is **exceptionally short.** A man whose skin is **pale should not marry** a woman whose skin is also **pale, lest** there **emerge from them** a child who is **extremely pale.** Likewise, a man whose skin is **dark should not marry** a woman whose skin is also **dark, lest** there **emerge from them** a child who is **extremely dark.**

״הַחֵרֵשׁ הַשּׁוֹטֶה וְהַשִּׁכּוֹר״. שִׁכּוֹר – מַחֵיל עֲבוֹדָה, בַּהֲדֵי מוּמֵי דְּמִחְילִי עֲבוֹדָה בָּעֵי לְמִיחֲשַׁב!

§ The mishna teaches that **the deaf-mute, the imbecile, and the drunk** are disqualified. The Gemara challenges: Since one who is **drunk profanes the** Temple **service,**[NH] the blemish of drunkenness **should have been counted** in the previous chapter **together with** those who have **blemishes that profane the service.** By contrast, those listed in this mishna are disqualified only because they are not equal among the seed of Aaron, and the *halakha* is that rites performed by priests with such blemishes are not profaned after the fact (see 43b).

בְּשְׁאָר דְּבָרִים הַמְשַׁכְּרִים. וּדְלָא כְּרַבִּי יְהוּדָה, דְּתַנְיָא: אָכַל דְּבֵילָה קְעִילִית, וְשָׁתָה חָלָב אוֹ דְּבַשׁ, נִכְנַס לַמִּקְדָּשׁ – חַיָּיב.

The Gemara responds: The mishna is referring to a case where one became drunk **through other intoxicating agents,** not through wine. In such a case, the rites are not profaned. **And** this is **not in accordance with** the opinion of **Rabbi Yehuda,** who holds that even in such a case the rites are profaned, **as it is taught** in a *baraita*: Rabbi Yehuda says that a priest who **ate** pressed **figs from Ke'ila**[HB] **or drank milk or honey,** thereby becoming intoxicated, and **entered the Sanctuary** to serve, is **liable** to receive lashes. This is because he transgressed the prohibition: "Drink no wine nor strong drink, you, nor your sons with you, when you go into the Tent of Meeting" (Leviticus 10:9). He understands that "strong drink" means any intoxicating agent. The verse indicates that one who performs the Temple service while drunk profanes the service, as it states immediately afterward: "And that you may put difference between the holy and the common."

מתני׳ אֵלּוּ כְּשֵׁרִין בָּאָדָם וּפְסוּלִין בַּבְּהֵמָה: אוֹתוֹ וְאֶת בְּנוֹ, טְרֵיפָה, וְיוֹצֵא דּוֹפֶן, וְשֶׁנַּעֲבְדָה בָּהֶן עֲבֵירָה, וְשֶׁהֵמִית אֶת הָאָדָם.

MISHNA **These** flaws **do not disqualify a person** from performing the Temple service, **but** they do **disqualify an animal** from being sacrificed: An animal whose mother or offspring were slaughtered that day, as slaughtering it would violate the prohibition against slaughtering the animal **itself and its offspring**[HB] on the same day; **a *tereifa*;** one **born by caesarean section;**[H] one **with which a transgression** of bestiality **was performed;**[H] **and one that killed a person.**[N]

NOTES

One who is drunk profanes the Temple service, etc. – שִׁכּוֹר מַחֵיל עֲבוֹדָה וכו׳: The commentaries ask: Why are the deaf-mute and imbecile mentioned among those whose performance of sacrificial rites does not desacralize the rites? They have no halakhic competence and their performance of the rites should therefore be invalid. The *Ḥazon Ish* answers that since a deaf-mute and an imbecile have no halakhic competence, their actions are insignificant whether they effectively perform a rite or desacralize it. Others explain that with regard to actions that do not require specific intent, the actions of a deaf-mute or an imbecile are valid after the fact (*Avnei Nezer*, *Oraḥ Ḥayyim* 261). Still others answer that the mishna is not referring to a deaf-mute, who has no halakhic competence, but to one who is only deaf but can speak. Similarly, the mishna is not referring to an actual imbecile, but to one of lesser intelligence, who cannot be considered equal among the seed of Aaron (*Saba Kadisha*, vol. 2, responsum 30).

And one with which a transgression was performed and one that killed a person – וְשֶׁנַּעֲבְדָה בָּהֶן עֲבֵירָה וְשֶׁהֵמִית אֶת הָאָדָם: Some versions of the mishna omit this clause. *Tosefot Yom Tov* explains that these versions are in accordance with the statement of Rabbi Yoḥanan that a priest who killed a person may not lift his hands for the Priestly Benediction (*Berakhot* 32b); all the more so he may not perform the Temple service. *Tosefot Yom Tov* holds that the same *halakha* applies to a priest who engages in forbidden sexual intercourse. Nevertheless, based on the standard version of the mishna, many commentaries infer that a priest who killed a person is not disqualified from performing the Temple service. Other sources in the Gemara would also seem to indicate that this is the *halakha*, e.g., Rabbi Akiva's statement that if a priest who killed a person began performing a sacrificial rite he performs it to its conclusion (see *Yoma* 85a). *Tosafot* explain that a priest who killed a person may not lift his hands for the Priestly Benediction for an independent reason that is irrelevant to his ability to serve in the Temple, and such a priest is in fact fit for performing the Temple service (see *Tosafot* on *Yevamot* 7a; see also *Mishne LaMelekh* on Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 9:16; and *Reshit Bikkurim*).

BACKGROUND

Pressed figs from Ke'ila – דְּבֵילָה קְעִילִית: These figs were produced in Ke'ila, a settlement in Judea. The figs grown there had concentrated levels of sugar. The Gemara relates that honey would drip from these sweet, dried figs, and it appears that this honey would somehow undergo fermentation.

Even without this fermentation, consuming large amounts of sugar is liable to cause minor poisoning, possibly caused by the liver's inability to digest such large amounts of sugar. This leaves one feeling nauseous and dizzy in a manner comparable to the sensation he feels after consuming alcoholic beverages.

Itself and its offspring – אוֹתוֹ וְאֶת בְּנוֹ: Although in the Torah the prohibition of "it and its offspring" (Leviticus 22:28) is phrased with masculine pronouns, most of the Sages rule that the essential prohibition is referring to a mother animal and its offspring. Other authorities extend the prohibition to a father animal and its offspring in cases where the paternity of the animal is clear. In terms of the prohibition, it is irrelevant whether the mother animal or the offspring is slaughtered first.

HALAKHA

One who is drunk profanes the Temple service, etc. – שִׁכּוֹר מַחֵיל עֲבוֹדָה וכו׳: With regard to any priest who is normally fit for performing the Temple service but who drank wine, it is prohibited for him to enter the Temple beyond the outer altar. If he nevertheless entered and performed a rite, that rite is disqualified and he is liable to receive death at the hand of Heaven (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 1:1).

Ate figs from Ke'ila, etc. – אָכַל דְּבֵילָה קְעִילִית וכו׳: If a priest became drunk from intoxicating agents other than wine it is prohibited for him to enter the Temple. If he nevertheless entered and performed a rite, then even if he had become drunk from milk or sweet, dried figs, he is liable to receive lashes. Nevertheless, his performance of the rite is valid. The *halakha* is in accordance with Rabbi Yehuda and not the mishna, based on the discussion of the Gemara in *Karetot* 13b. Others explain that even the Rabbis of this mishna agree that he receives lashes (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 1:2, and see Mahari Kurkus and *Kesef Mishne* there).

Itself and its offspring – אוֹתוֹ וְאֶת בְּנוֹ: The prohibition against slaughtering an animal and its offspring on the same day applies to both non-sacred and sacrificial animals, whether the sacrificial animals are intended for consumption or not. Accordingly, if one slaughtered an animal in the Temple courtyard and a second person slaughtered its offspring outside the courtyard, or vice versa, it makes no difference whether one of the animals was sacred and the other not, or both of them were sacred or non-sacred; the one who slaughters the second animal is liable to receive lashes for transgressing the prohibition against slaughtering an animal and its offspring the same day (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:2).

A *tereifa* and one born by caesarean section – טְרֵיפָה וְיוֹצֵא דּוֹפֶן: A priest who is a *tereifa*, i.e., who has a condition that will cause him to die within a year, is fit for performing the Temple service, while a *tereifa* animal is not fit to be sacrificed. A priest born by caesarean section is fit to perform the Temple service, while an animal born by caesarean section is not fit to be sacrificed (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 7:12).

With which a transgression was performed, etc. – שֶׁנַּעֲבְדָה בָּהֶן עֲבֵירָה וכו׳: A consecrated animal with which a transgression was performed, or that killed a person, may not be sacrificed; nor may it be redeemed until it develops a permanent blemish (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 2:9).

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וְהַנּוֹשֵׂא נָשִׁים בַּעֲבֵירָה – פָּסוּל, עַד שֶׁיְּדִירֶנָּה הֲנָאָה. וְהַמְטַמֵּא לְמֵתִים – פָּסוּל, עַד שֶׁיְּקַבֵּל עָלָיו שֶׁלֹּא יְהֵא מְטַמֵּא לְמֵתִים.

And a priest **who marries women by a transgression,**[H] e.g., a divorcée or a woman who underwent *ḥalitza*, is **disqualified** from performing the Temple service **until he vows** not to derive **benefit from her.** The vow ensures that he will divorce her promptly. **And** a priest **who becomes impure** through exposure **to corpses** is **disqualified** from performing the Temple service **until he accepts upon himself** a commitment **that he will no** longer **become impure** through exposure **to corpses.**

גמ׳ ״וְאֵלּוּ בְּשִׁירִין בָּאָדָם״. מַאי בְּ״אוֹתוֹ וְאֶת בְּנוֹ״?

GEMARA The mishna teaches about **these** flaws that **do not disqualify a person** from performing the Temple service but do disqualify an animal from being sacrificed, one of which is: Itself and its offspring. The Gemara asks: To **what** possible case involving people is the mishna referring when it differentiates between people and animals **with regard to** the flaw of: **Itself and its offspring?**

אִילֵימָא אַהֲרֹן וּבָנָיו, דִּכְוָותֵיהּ תַּיִּישׁ וּבְנוֹ, מִי עָבֵיד? וְהָתַנְיָא: ״אוֹתוֹ וְאֶת בְּנוֹ״ נוֹהֵג בִּנְקֵבוֹת וְאֵינוֹ נוֹהֵג בִּזְכָרִים! אֶלָּא תְּיָישָׁה וּבְנָהּ, דִּכְוָותָהּ כֹּהֶנֶת וּבְנָהּ, כֹּהֶנֶת בַּת עֲבוֹדָה הִיא?

If we say this is referring to **Aaron and his sons,** and it means that they may serve in the Temple on the same day, then **in the corresponding** situation the mishna must be referring to a male **goat and its offspring.** And **does** such a prohibition **apply? But isn't it taught** in a *baraita*: The prohibition against slaughtering an animal **itself and its offspring** on the same day **applies to female** animals, i.e., a mother and its offspring, **but it does not apply to males,**[H] i.e., a father and its offspring. **Rather,** the mishna is referring to a female **goat and its offspring,** that they may not be slaughtered on the same day. If so, **in the corresponding** situation **here,** with regard to the priesthood, the mishna must be referring to **a female priest and her son.** But **is a female priest fit for** performing the Temple **service** at all? Clearly not.

לְעוֹלָם אַהֲרֹן וּבָנָיו, דִּכְוָותָהּ הָכָא תַּיִּישׁ וּבְנוֹ; אָמְרִי בְּמַעֲרָבָא מִשְּׁמֵיהּ דְּרַבִּי יוֹסֵי בַּר אָבִין: עֲדָא אָמְרָה – חֲנַנְיָה הִיא, דְּתַנְיָא: ״אוֹתוֹ וְאֶת בְּנוֹ״ נוֹהֵג בִּנְקֵבוֹת וְאֵינוֹ נוֹהֵג בִּזְכָרִים, חֲנַנְיָה אוֹמֵר: נוֹהֵג בִּזְכָרִים וּבִנְקֵבוֹת.

The Gemara explains: **Actually,** the mishna is referring to **Aaron and his sons,** and **in the corresponding** situation **here,** it is referring to a male **goat and its offspring.** And as for the difficulty that the prohibition of: Itself and its offspring, applies only to the mother, **they said in the West,** Eretz Yisrael, **in the name of Rabbi Yosei bar Avin: That is to say,** the mishna **is** in accordance with the opinion of **Ḥananya, as it is taught** in a *baraita*: The prohibition against slaughtering an animal **itself and its offspring** on the same day **applies to female** animals **but it does not apply to male** animals. **Ḥananya says: It applies to** both **male and female** animals.

״וְהַנּוֹשֵׂא נָשִׁים״ כּוּ׳. תָּנָא: נוֹדֵר וְעוֹבֵד, יוֹרֵד וּמְגָרֵשׁ.

§ The mishna teaches that a priest **who marries women** by a transgression is disqualified from performing the Temple service until he vows not to derive benefit from her. It is **taught** in a *baraita*: If a priest was performing a sacrificial rite and it was discovered that he married a woman who was forbidden to him, he does not stop performing the rite. Rather, **he vows** not to derive benefit from her **and** then continues to **perform** the rite. Once he has finished, **he descends** from the altar **and divorces** his wife.

HALAKHA

A priest who marries women by a transgression, etc. – הַנּוֹשֵׂא נָשִׁים בַּעֲבֵירָה וכו׳: If a priest married a woman in transgression of a prohibition, he may not serve in the Temple until the court administers a vow based on the consent of the public, in accordance with the conclusion of the Gemara on *Gittin* 36a. The court administers the vow in this manner so that it cannot be dissolved. After he completes the service he must divorce the woman who is forbidden to him. Similarly, if a priest would impurify himself through exposure to corpses, he is disqualified from Temple service until he accepts upon himself in front of the court that he will no longer allow himself to become exposed to corpses. If either of these priests nevertheless performed rites before vowing or accepting, respectively, those rites are not desacralized (Rambam *Sefer Avoda*, *Hilkhot Biat HaMikdash* 6:9).

Itself and its offspring applies to female animals but it does not apply to males – אוֹתוֹ וְאֶת בְּנוֹ נוֹהֵג בִּנְקֵבוֹת וְאֵינוֹ נוֹהֵג בִּזְכָרִים: The prohibition against slaughtering an animal and its offspring on the same day applies to the mother and its offspring. Nevertheless, if it is clearly established that a certain animal is the father of another animal, the father may not be slaughtered on the same day as its offspring. One who slaughters a father and offspring on the same day does not receive lashes, as there is uncertainty whether or not the prohibition applies to the father as well. The Rosh rules that the *halakha* is in accordance with the statement of Ḥananya that the prohibition applies to both male and female animals, as the mishna is in accordance with his opinion. The Rif rules that the *halakha* is not in accordance with the opinion of Ḥananya (Rambam *Sefer Kedusha*, *Hilkhot Sheḥita* 12:11; *Shulḥan Arukh*, *Yoreh De'a* 16:2).

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HALAKHA

Must delineate the conditions of the vow – צָרִיךְ לְפָרֵשׁ אֶת הַנֵּדֶר: One who comes before a halakhic authority to dissolve a vow must delineate the vow as well as the reason for making it. If he does not provide these details his vow is not dissolved, even if the halakhic authority dissolves it. The *halakha* is in accordance with the opinion of Rav Pappa on *Gittin* 35b (*Shulḥan Arukh*, *Yoreh De'a* 228:14, and see *Shakh* and *Taz* there; *Oraḥ Ḥayyim* 128:58 and *Magen Avraham* there).

וְלֵיחוֹשׁ דִּלְמָא אָזֵיל לְגַבֵּי חָכָם וְשָׁרֵי לֵיהּ! קָסָבַר: צָרִיךְ לְפָרֵשׁ אֶת הַנֵּדֶר.

The Gemara asks: How can he be permitted to perform the Temple service before actually divorcing his wife? **But let us be concerned** that **perhaps he will go before a Sage** who will **dissolve his** vow. The Gemara responds: The *tanna* **holds** that when one seeks to dissolve a vow, he **must delineate** the conditions of **the vow**[H] to the Sage. Accordingly, when the Sage hears that he uttered this vow because he married a woman who was forbidden to him, the Sage will not dissolve it.

הָנִיחָא לְמַאן דְּאָמַר: צָרִיךְ לְפָרֵשׁ אֶת הַנֵּדֶר, אֶלָּא לְמַאן דְּאָמַר: אֵין צָרִיךְ לְפָרֵשׁ אֶת הַנֵּדֶר, מַאי אִיכָּא לְמֵימַר? דְּמַדְּרִינַן לֵיהּ בָּרַבִּים.

The Gemara asks: **This works out well according to the one who says** one **must delineate** the conditions of **the vow. But according to the one who says** he does **not need to delineate** the conditions of **the vow, what can be said?** The Gemara responds **that we administer the vow** to the priest **in public.** Such a vow cannot be dissolved.

הָנִיחָא לְמַאן דְּאָמַר: נֶדֶר שֶׁהוּפַר בָּרַבִּים – אֵין לוֹ הֲפָרָה, אֶלָּא לְמַאן דְּאָמַר: יֵשׁ לוֹ הֲפָרָה, מַאי אִיכָּא לְמֵימַר? דְּמַדְּרִינַן לֵיהּ בָּרַבִּים.

The Gemara persists: **This works out well according to the one who says** that **a vow that was taken in public has no** option of **nullification** by a halakhic authority, **but according to the one who says it has** the option of **nullification, what can be said?** The Gemara responds **that we administer the vow**

Perek **VII**
Daf **46** Amud **a**

HALAKHA

A vow that was taken in public…based on the consent of the public – נֶדֶר שֶׁהוּפַר בָּרַבִּים וְעַל דַּעַת הָרַבִּים: A vow based on the consent of the public cannot be dissolved by a halakhic authority without the consent of the public. The Rema writes that since many of the early commentaries (Ramban; Rashba; *Smag*; Rivash) hold it cannot be dissolved even with public consent unless it is for the purpose of the performance of a mitzva, it is appropriate to rule stringently *ab initio* (Rambam *Sefer Hafla'a*, *Hilkhot Shevuot* 6:8; *Shulḥan Arukh*, *Yoreh De'a* 228:21, and in the comment of Rema).

לֵיהּ אַדַּעַת רַבִּים.

to the priest based **on the consent of the public,**[N] making it a type of vow that cannot be dissolved without their consent.

אָמַר אַמֵּימָר: הִלְכְתָא, אֲפִילּוּ לְמַאן דְּאָמַר נֶדֶר שֶׁהוּפַר בָּרַבִּים יֵשׁ לוֹ הֲפָרָה, עַל דַּעַת הָרַבִּים – אֵין לוֹ הֲפָרָה. וְהָנֵי מִילֵּי – לְדָבַר הָרְשׁוּת, אֲבָל לְדָבַר מִצְוָה – יֵשׁ לוֹ הֲפָרָה; כִּי הַהוּא דְּמַקְרֵי דַּרְדְּקֵי, וְאַדְּרֵיהּ רַב אַחָא דְּקָא פָּשַׁע בְּיָנּוּקֵי, וְאַהַדְּרֵיהּ רָבִינָא – דְּלָא אַשְׁכַּח דַּהֲוָה דָּיֵיק כְּוָותֵיהּ.

Ameimar says: The ***halakha*** is as follows: **Even according to the one who says a vow that was taken in public has** the option of **nullification,** if it was taken based **on the consent of the public**[H] it **has no** option of **nullification.**[N] The Gemara comments: **And this matter applies** only to when the nullification of a vow is in order to enable one **to** perform **an optional matter, but to** enable one to perform **a matter of a mitzva it has** the option of **nullification.**[N] **As** in the incident involving **a certain teacher of children,** upon **whom Rav Aḥa administered a vow** to cease teaching based **on the consent of the public, as he was negligent with regard to the children**[N] by hitting them too much; **and Ravina** had his vow nullified and **reinstated him, as they did not find** another teacher **who was as meticulous as he** was.

NOTES

Based on the consent of the public – אַדַּעַת רַבִּים: There are several different explanations of what it means to vow based on the consent of the public. According to Rashi and Rav Hai Gaon, this means the public says to someone: We are imposing a vow on you. According to Rabbeinu Tam, cited in *Tosafot* and *Tosefot Ḥakhmei Angliyya* on *Gittin* 36a, one takes the vow on his own and states he is vowing based on the consent of so-and-so and so-and-so. But if he states only that he takes the vow based on the consent of the public the vow can be nullified. According to the Rambam, whether one states: Based on your consent, with: Your, in the plural; or: Based on the consent of so-and-so and so-and-so; or only: Based on the public consent, his vow cannot be dissolved.

The early commentaries disagree as to whether this vow must be taken in the presence of the public. With regard to how many people must be counted together to constitute the public, most of the early commentaries hold it must consist of at least three people; some maintain that the public may consist of even two people (see Rashba). According to Rashi (*Gittin* 35b), it seems that at least ten people must be present to be considered the public (see *Penei Yehoshua* there).

On the consent of the public it has no option of nullification – עַל דַּעַת הָרַבִּים אֵין לוֹ הֲפָרָה: A vow taken based on the consent of the public requires their consent in order to dissolve it; the regret of the individual who took the vow does not suffice (Responsa of Rav Hai Gaon). Since an extenuation enabling the dissolution of the vow must be obtained for each individual of the public, and it is impossible to arrive at a consensus among the public with regard to the vow, it cannot be dissolved (*Shita Mekubbetzet*, citing Rabbi Barukh bar Yitzḥak). Consequently, if a vow is administered based on the consent of specified individuals it is possible for such a vow to be dissolved, provided that an extenuation is obtained for those specified individuals. The Rashba (*Gittin* 36a) cites Rabbeinu Tam, who holds that any vow taken based on the consent of others cannot be dissolved, as the dissolution of a vow is based on an extenuation discovered by the Sage for which an individual would not have initially taken the vow; since the others did not take the vow, they may not request its dissolution.

To enable one to perform a matter of a mitzva it has the option of nullification, etc. – לְדָבַר מִצְוָה יֵשׁ לוֹ הֲפָרָה וכו': Rabbeinu Tam, cited in *Tosafot* on *Gittin* 36a, explains that the public would want him to be able to perform the mitzva of teaching Torah to children. The Ran there adds that since his vow is preventing him from fulfilling a mitzva it is akin to a vow taken in error, which is grounds for its dissolution. Dissolving the vow was based on the assumption that the public would want the mitzva to be fulfilled.

As he was negligent with regard to the children – דְּקָא פָּשַׁע בְּיָנּוּקֵי: The majority of the early commentaries, including Rashi, write that he struck the students too much. Rabbeinu Crescas Vidal and the Ritva in tractate *Makkot* (16b) explain that he was negligent in his manner of teaching and did not give them the proper attention. This explanation fits better with the way the term negligent is generally used in the Talmud.

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״וְהַמְטַמֵּא לְמֵתִים״ כו׳. מַאי שְׁנָא הָכָא דְּסָגֵי לֵיהּ בְּקַבָּלָה, וּמַאי שְׁנָא הָתָם דְּמַדְּרִינַן לֵיהּ? הָתָם יִצְרוֹ תְּקָפוֹ.

§ The mishna teaches that a priest **who becomes impure** through exposure **to corpses** is disqualified from performing the Temple service until he accepts upon himself that he will no longer become impure in that manner. The Gemara asks: **What is different here that it is sufficient for him** merely to **accept** upon himself a commitment in order to continue serving in the Temple, **and what is different there,** where the priest marries by a transgression, **that we administer a vow to him?** The Gemara responds: **There his desire seizes him,** and it is therefore necessary for the priest to take a vow.

הדרן עלך מומין אלו

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Summary of **Perek VII**

At the beginning of the chapter, the Gemara established that the Torah's lists of blemishes that disqualify an animal and those that disqualify a person complement one another. Accordingly, all the blemishes mentioned in the previous chapter that disqualify an animal as an offering disqualify a priest from performing the Temple service, whether the blemish is permanent or temporary. Nevertheless, if the blemish disappears, the priest is fit to perform the Temple service.

There are also blemishes that are unique to people and that do not apply to animals. Some are due to the difference in body structure between people and animals, while others result from the unique requirement that all serving priests must be of similar physical appearance. The Sages derived that a priest who is not equal among the seed of Aaron, i.e., who does not have a blemish but whose appearance differs greatly from that of other priests, is disqualified from performing the Temple service. Although all these blemishes disqualify a priest from performing the Temple service by Torah law, the type of blemish is of halakhic significance: A priest with a full-fledged blemish who performs the Temple service has profaned it, whereas one who is disqualified because he is not equal "among the seed of Aaron" does not profane the service. Aside from blemishes that disqualify a priest by Torah law, the Sages decreed that certain flaws disqualify a priest from performing the Temple service because they have the appearance of a blemish. Those were discussed in this chapter as well.

Since this chapter is based on the list of blemishes in the previous chapter, the analysis in this chapter dealt primarily with those blemishes unique to people, most of which disqualify a priest because he is not equal among the seed of Aaron. As in the previous chapter, the mishna delineated those blemishes that disqualify according to body structure: First it discussed blemishes of the head, then of the eyes, followed by the ears, body, genitalia, hands, and legs.

The priests disqualified from Temple service include those with distorted bodies or skulls; those whose limbs are disproportional to the rest of their bodies; those with extra appendages; those whose eyes are strange, e.g., they are crossed, or whose eyes emit a constant discharge; and those with abnormal skin color. Additionally, priests are disqualified due to certain illnesses or behaviors, e.g., epilepsy or mental illness.

This chapter also elucidated other causes for disqualifying a priest from Temple service, e.g., a drunken priest, who is prohibited by Torah law from serving in the Temple, and one who transgresses certain prohibitions such as marrying a woman who is forbidden to him or regularly becoming impure through exposure to corpses. In the case of the latter two prohibitions, it is forbidden by rabbinic law for a priest who violates them to serve in the Temple until he discontinues his behavior.

Another issue explored was blemishes that disqualify animals from being sacrificed but where a priest in the equivalent case remains fit: A *tereifa*, an animal with which

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a transgression was performed, and an animal that may not be slaughtered due to the prohibition against slaughtering an animal and its offspring on the same day.

Finally, this chapter dealt with the similarities and differences between the blemishes that disqualify a priest and those that disqualify an animal. It also deliberated on the precise number of limbs in the human body.

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Introduction to **Perek VIII**

Sanctify to Me all the firstborn, whatever opens the womb among the children of Israel, both of man and of animal, it is Mine.

(Exodus 13:2)

Everything that opens the womb, of all flesh that they sacrifice to the Lord, both of man and animal, shall be yours; yet the firstborn of man you shall surely redeem, and the firstling of unclean animals you shall redeem. And their redemption money – from a month old you shall redeem them – shall be, according to your valuation, five shekels of silver, after the shekel of the Sanctuary – it is twenty gera.

(Numbers 18:15–16)

If a man has two wives, the one beloved and the other hated, and they have borne him children, both the beloved and the hated; and if the firstborn son is hers who was hated; then it shall be, on the day that he causes his sons to inherit that which he has, that he may not make the son of the beloved the firstborn before the son of the hated, who is the firstborn; but he shall recognize the firstborn, the son of the hated, by giving him a double portion of all that he has; for he is the first of his strength, the right of the firstborn is his.

(Deuteronomy 21:15–17)

This chapter discusses the *halakhot* of the redemption of a Jewish male firstborn. There are two *halakhot* that apply to a firstborn: The first is the redemption of a son born first to an Israelite woman, the one who "opens the womb," whereby the father is obligated to give a priest five *sela* coins for his redemption. The second is the right of one who is his father's firstborn, "the first of his strength," to take a double portion of his father's property after the father's death. Both *halakhot* can apply to the same individual in a case where he is a firstborn to both his father and his mother. It is also possible that one can have the status of a firstborn with regard to the *halakha* of redemption but not with regard to the *halakha* of inheritance, i.e., if one is the firstborn of his mother but not of his father; likewise, the reverse.

There are also situations where someone who is apparently a firstborn to both his father and his mother is actually not classified as a firstborn at all, e.g., due to a previous miscarriage. These matters depend on precise definitions of both types of firstborns. In addition, at times the determination of whether the firstborn son is redeemed is based on practical issues. For example, may the court obligate a father to redeem his son under certain circumstances? May a son seize from his brothers the double portion due a firstborn?

The basic mitzva of the redemption of the firstborn is to redeem at one month of age a male who opens his mother's womb. This redemption is performed by giving five *sela* coins to a priest. Each aspect of this mitzva raises questions with regard to its exact definition: Does the phrase "opens the womb" refer to any child who emerges first from the mother's womb? What is the *halakha* with regard to a son born after a miscarriage, and is there any difference in the *halakhot* based on at what point in the fetus's development the miscarriage occurred? What is the halakhic status of a son who was born first, not by opening the womb but by means of a caesarean section: Is he the firstborn, or is the son born after him perhaps the firstborn?

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Another area of inquiry pertains to the expression "of Israel" (Exodus 13:2). With regard to a woman who gave birth when she was a gentile and subsequently converted, does the *halakha* of redemption of the firstborn son apply to the first son born to her after her conversion? Likewise, what is the *halakha* with regard to the firstborn of a daughter of a priest or a Levite, if the father is an Israelite?

The requirement that the redemption be performed "from a month old" also raises several questions, both fundamental and practical: What exactly is the duration of a month, in light of the fact that a lunar month is twenty-nine and a half days, which means that a calendar month can be twenty-nine or thirty days? Furthermore, is it possible to redeem a firstborn before he is a month old?

The obligation to pay five *sela* coins for the redemption also requires clarification. What is the precise value of these five *sela* coins? Must one use coins or may he pay with items that have the equivalent value of five *sela* coins? If so, are there items that may not be used for the redemption?

Although the mitzva of redemption is in practice an obligation on the father, everyone agrees that if the father did not redeem his son, the son is required to redeem himself. In this regard, one must establish what the *halakha* is in a case of one who does not know if his father redeemed him. This discussion leads to a fundamental question: Who, in essence, is obligated in the mitzva of redemption, the father or the firstborn himself?

The definition of a firstborn with regard to inheritance also raises several questions. Is any male born first to his father called a firstborn? Is a son who is born following a miscarriage classified as a firstborn for the purposes of this *halakha*? Questions that arise in this context are similar to some of the questions that arise with regard concerning the firstborn: What is the *halakha* of a man who had sons and subsequently converted? Is the first son born to him as a Jew considered a firstborn with regard to taking a double share in his inheritance?

There are other *halakhot* that relate to a firstborn but are not relevant to the discussion of the definition of a firstborn, such as the *halakha* that a firstborn receives a double portion of his father's inheritance. A number of issues require resolution with regard to this *halakha* as well. For example, is a firstborn entitled to a double portion in all that his father owned? Does this include property that was not in his father's possession at the time of his death? What is the *halakha* with regard to his mother's property that was under his father's control?

These are the main topics discussed in the chapter. Apropos the discussion about the value of the five *sela* for the redemption of one's son, the chapter also deals with the *halakhot* of other financial obligations. This includes both those that apply by Torah law and those that apply by rabbinic law, as well the possibility of claiming debts from someone's property after his death.

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מתני׳ יֵשׁ בְּכוֹר לְנַחֲלָה וְאֵינוֹ בְּכוֹר לַכֹּהֵן, בְּכוֹר לַכֹּהֵן וְאֵינוֹ בְּכוֹר לְנַחֲלָה, בְּכוֹר לְנַחֲלָה וְלַכֹּהֵן, וְיֵשׁ שֶׁאֵינוֹ בְּכוֹר לֹא לְנַחֲלָה וְלֹא לַכֹּהֵן.

MISHNA **There is** a son who is **a firstborn with regard to inheritance but is not a firstborn with regard to** the requirement of redemption from **a priest.** There is another who is **a firstborn with regard to** redemption from **a priest but is not a firstborn with regard to inheritance.** There is another who is **a firstborn with regard to inheritance and with regard to** redemption from **a priest.**[N] **And there is** another **who is not a firstborn** at all, **neither with regard to inheritance nor with regard to** redemption from **a priest.**

אֵיזֶהוּ בְּכוֹר לְנַחֲלָה וְאֵינוֹ בְּכוֹר לַכֹּהֵן? הַבָּא אַחַר נְפָלִים, אַף עַל פִּי שֶׁיָּצָא אֶת רֹאשׁוֹ חַי; וּבֶן תִּשְׁעָה שֶׁיָּצָא רֹאשׁוֹ מֵת; הַמַּפֶּלֶת כְּמִין בְּהֵמָה חַיָּה וָעוֹף – דִּבְרֵי רַבִּי מֵאִיר,

Which is the son who is **a firstborn with regard to inheritance but is not a firstborn with regard to** redemption from **a priest?** It is a son **who came after miscarriage** of an underdeveloped fetus,[H] **even where** the **head** of the underdeveloped fetus **emerged alive; or** after a fully developed **nine**-month-**old** fetus **whose head emerged dead.**[H] The same applies to a son born to a woman **who** had previously **miscarried** a fetus that had the appearance of **a type of domesticated animal, undomesticated animal, or bird,**[NH] as that is considered the opening of the womb. This is **the statement of Rabbi Meir.**

וַחֲכָמִים אוֹמְרִים: עַד שֶׁיְּהֵא בּוֹ מִצּוּרַת אָדָם. הַמַּפֶּלֶת סַנְדָּל אוֹ שִׁלְיָא אוֹ שָׁפִיר מְרוּקָם, וְהַיּוֹצֵא מֵחוּתָּךְ – הַבָּא אַחֲרֵיהֶם בְּכוֹר לְנַחֲלָה וְאֵין בְּכוֹר לַכֹּהֵן.

And the Rabbis say: The son is not exempted from the requirement of redemption from a priest **unless** his birth follows the birth of an animal **that takes the form of a person.** In the case of a woman **who miscarries** a fetus in the form of **a sandal fish**[B] **or** from whom **an afterbirth**[N] **or a gestational sac** in which **tissue developed** emerged, **or** who delivered a fetus **that emerged in pieces,** the son **who follows these is a firstborn with regard to inheritance but is not a firstborn with regard to** redemption from **a priest.**

BACKGROUND

Miscarries a fetus in the form of a sandal fish – מַפֶּלֶת סַנְדָּל: Sometimes, in a case of twins, one of the embryos occasionally develops more quickly and thereby severely reduces the blood supply to the other embryo. In these situations the undernourished fetus does not develop at all but remains a fleshy mass adjoined to the placenta, similar in shape to a sandal fish. This fish is referred to today as the species sole, a group of flatfish whose name is derived from the Latin solea, which refers to both the fish and the sole of a shoe. Many species of flatfish possess an interesting feature: Both of its eyes are on the right side of its body.



Lemon sole

HALAKHA

A son who came after miscarriage of an underdeveloped fetus – הַבָּא אַחַר נְפָלִים: With regard to a son who came after a miscarriage, even if the head of the first offspring emerged alive and then returned to the womb and died, after which, at a later point, the second son was born, the son is a firstborn with regard to inheritance and he receives a double portion of his father's inheritance. Some commentaries maintain that the same *halakha* applies if the entire body of the first offspring emerged (*Bah*, *Sma*, and *Shakh*, citing Rashi on *Ḥullin* 68a), although others disagree (see *Taz*). The obligation of redemption does not apply to this second son, as he did not open his mother's womb (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:10 and *Sefer Zera'im*, *Hilkhot Bikkurim* 11:15; *Shulḥan Arukh*, *Ḥoshen Mishpat* 277:6 and *Yoreh De'a* 305:22).

A fully developed nine-month-old fetus whose head emerged dead – בֶּן תִּשְׁעָה שֶׁיָּצָא רֹאשׁוֹ מֵת: If the head of a fully developed nine-month-old fetus emerged dead and then returned to the womb, the subsequent son is a firstborn with regard to inheritance but is not a firstborn with regard to the redemption of the firstborn, as he did not open his mother's womb (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:10 and *Sefer Zera'im*, *Hilkhot Bikkurim* 11:15; *Shulḥan Arukh*, *Ḥoshen Mishpat* 277:6 and *Yoreh De'a* 305:22).

A woman who miscarried a fetus that had the appearance of a type of domesticated animal, undomesticated animal, or bird, etc. – הַמַּפֶּלֶת כְּמִין בְּהֵמָה חַיָּה וָעוֹף וכו׳: If a woman miscarried a fetus that had the appearance of a type of domesticated animal, undomesticated animal, or bird, where it only partially resembled a person; or if she miscarried a fetus in the form of a sandal fish; or in the case of a woman from whom the afterbirth or a gestational sac in which tissue developed emerged; or if she delivered a fetus that emerged in pieces, the son born after any of these is not considered to have opened his mother's womb and therefore is not obligated in the redemption of the firstborn (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:14, and see *Sefer Kedusha*, *Hilkhot Issurei Bia* 10:9; *Shulḥan Arukh*, *Yoreh De'a* 305:22).

NOTES

A firstborn with regard to inheritance and with regard to redemption from a priest – בְּכוֹר לְנַחֲלָה וְלַכֹּהֵן: There are two *halakhot* in which the status of a woman's firstborn son is relevant: The obligation of redemption of the firstborn son from a priest and his right to a double portion from his father's inheritance. The definition of a firstborn differs in these two cases. A firstborn that must be redeemed is one who opened his mother's womb, which means that even if his father had several wives, the obligation of redemption applies to the firstborn of each wife. By contrast, a firstborn with regard to inheritance is the first born to his father, as it is stated: "For he is the first of his strength, the right of the firstborn is his" (Deuteronomy 21:17). Even if his mother bore other sons from a previous husband, he is still considered the firstborn of his father. Nevertheless, the Sages derived (*Bava Batra* 111b; see also Rashi here) that not every son born first to a man is a firstborn, as the phrase: "The first of his strength [*ono*]," is interpreted as alluding to mourning [*aninut*], i.e., only one over whose death the father mourns is included. Based on these definitions, this and the next mishna (47b) address situations where the *halakhot* of a firstborn with regard to inheritance and those a firstborn with regard to redemption are identical, and those instances where their *halakhot* differ.

A woman who miscarried a fetus that had the appearance of a type of domesticated animal, undomesticated animal, or bird – הַמַּפֶּלֶת כְּמִין בְּהֵמָה חַיָּה וָעוֹף: In tractate *Nidda* (21a) this dispute is cited with regard to the definition of the offspring for which a woman must observe the *halakhot* of ritual impurity of childbirth. The Gemara there (22b–23b) discusses at length the precise definitions of the births described here, according to both the opinion of Rabbi Meir and the opinion of the Rabbis, whose ruling is accepted as *halakha*. The Rambam concludes, as indicated by a comparison of the *mishnayot* here and in the third chapter of *Nidda*, that the principle is as follows: Any offspring for which a woman contracts impurity of childbirth exempts the subsequent son from the redemption of the firstborn, while if the mother is not rendered impure with the impurity of childbirth it does not exempt the subsequent son from the redemption (see Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:14).

Afterbirth [*shilya*] – שִׁלְיָא: In modern Hebrew the word *shilya* refers specifically to the placenta. In the Gemara the term may refer to the gestational sac, from which the fetus emerges upon birth and which itself is subsequently expelled from a woman's body following delivery (see *Tosefta*, *Nidda* 4:9). Although the *shilya* itself is not an offspring, and therefore it does not exempt the next child from the redemption of the firstborn, it is concluded that there is no afterbirth without an offspring (*Nidda* 26a). The early commentaries add that even if the placenta is cut open and no offspring is found, the subsequent son born is exempt from redemption, as it is assumed there was a fetus there and it liquefied (Rashba in *Torat HaBayit* 7:6).



Terracotta model of a placenta from the Roman period

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מִי שֶׁלֹּא הָיוּ לוֹ בָּנִים, וְנָשָׂא אִשָּׁה שֶׁכְּבָר יָלְדָה; עוֹדָהּ שִׁפְחָה וְנִשְׁתַּחְרְרָה, עוֹדָהּ נָכְרִית וְנִתְגַּיְּרָה, מְשֻׁבָּאת לְיִשְׂרָאֵל יָלְדָה – בְּכוֹר לְנַחֲלָה וְאֵין בְּכוֹר לַכֹּהֵן.

In the case of a son born to **one who did not have sons and he married a woman who had already given birth;**[H] or if he married a woman who gave birth when **she was still** a Canaanite **maidservant and she was** then **emancipated;**[H] or one who gave birth when **she was still a gentile and she** then **converted,** and **when** the maidservant or the gentile **came to** join **the Jewish people she gave birth** to a male, that son is **a firstborn with regard to inheritance but is not a firstborn with regard to** redemption from **a priest.**

רַבִּי יוֹסֵי הַגְּלִילִי אוֹמֵר: בְּכוֹר לְנַחֲלָה וְלַכֹּהֵן, שֶׁנֶּאֱמַר: ״פֶּטֶר רֶחֶם בְּיִשְׂרָאֵל״ – עַד שֶׁיִּפְטְרוּ רֶחֶם מִיִּשְׂרָאֵל.

Rabbi Yosei HaGelili says: That son is **a firstborn with regard to inheritance and with regard to** redemption from **a priest, as it is stated:** "Whatever **opens the womb among** the children of **Israel**" (Exodus 13:2). This indicates that the halakhic status of a child born to the mother is not that of one who opens the womb **unless it opens the womb** of a woman **from the Jewish people.**[N]

מִי שֶׁהָיוּ לוֹ בָּנִים וְנָשָׂא אִשָּׁה שֶׁלֹּא יָלְדָה; נִתְגַּיְּרָה מְעוּבֶּרֶת, נִשְׁתַּחְרְרָה מְעוּבֶּרֶת;

In the case of **one who had sons and married a woman who had not given birth;** or if he married a woman who **converted while** she was **pregnant,** or a Canaanite maidservant who **was emancipated while** she was **pregnant**[H] and she gave birth to a son, he is a firstborn with regard to redemption from a priest, as he opened his mother's womb, but he is not a firstborn with regard to inheritance, because he is not the firstborn of his father or because halakhically he has no father.

וְיָלְדָה הִיא וְכֹהֶנֶת, הִיא וּלְוִיָּה, הִיא וְאִשָּׁה שֶׁכְּבָר יָלְדָה; וְכֵן מִי שֶׁלֹּא שָׁהֲתָה לְאַחַר בַּעֲלָהּ שְׁלֹשָׁה חֳדָשִׁים, וְנִשֵּׂאת וְיָלְדָה, וְאֵינוֹ יָדוּעַ אִם בֶּן תִּשְׁעָה לָרִאשׁוֹן אִם בֶּן שִׁבְעָה לָאַחֲרוֹן – בְּכוֹר לַכֹּהֵן וְאֵינוֹ בְּכוֹר לְנַחֲלָה.

And likewise, if an Israelite woman **and** the daughter or wife of **a priest,** neither of whom had given birth yet, or an Israelite woman **and** the daughter or wife of **a Levite,** or an Israelite woman **and a woman who had already given birth,** all women whose sons do not require redemption from the priest, **gave birth** in the same place and it is uncertain which son was born to which mother; **and likewise** a woman **who did not wait**[H] **three months after** the death of **her husband and she married and gave birth, and it is unknown whether** the child was born after a pregnancy of **nine months** and is the **son of the first** husband, or **whether** he was born after a pregnancy of **seven months** and is the **son of the latter** husband, in all these cases the child is **a firstborn with regard to** redemption from **a priest but is not a firstborn with regard to inheritance.** Due to the uncertainty, he is unable to prove he is the firstborn of either father, and therefore he is not entitled to the double portion of the firstborn.

NOTES

Unless it opens the womb of a woman from the Jewish people – עַד שֶׁיִּפְטְרוּ רֶחֶם מִיִּשְׂרָאֵל: Rabbi Yosei HaGelili and the Rabbis apparently disagree with regard to the interpretation of this verse: "Whatever opens the womb among the children of Israel" (Exodus 13:2). According to Rabbi Yosei HaGelili the mention of Israel is applied to the term "opens," i.e., firstborn status applies only to the first birth when a woman is Jewish. The Rabbis maintain that the mention of Israel is referring to the "womb," i.e., the obligation of redemption applies to the first birth of a womb of a Jewish woman, but not to the second birth from the womb of a Jewish woman, even if the first birth took place before she was Jewish.

HALAKHA

One who did not have sons and he married a woman who had already given birth – מִי שֶׁלֹּא הָיוּ לוֹ בָּנִים וְנָשָׂא אִשָּׁה שֶׁכְּבָר יָלְדָה: The firstborn with regard to inheritance is a son who is his father's first child, even if he is not his mother's first child. For the purposes of inheritance the mother is not taken into account; even if she had given birth to several children from another man, since this boy is his father's firstborn he is entitled to a double share of his father's inheritance. He is not considered the firstborn with regard to redemption, as he did not open his mother's womb (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:9 and *Sefer Zera'im*, *Hilkhot Bikkurim* 11:1; *Shulḥan Arukh*, *Ḥoshen Mishpat* 277:8 and *Yoreh De'a* 305:17).

A woman who gave birth when she was still a Canaanite maidservant and she was then emancipated, etc. – עוֹדָהּ שִׁפְחָה וְנִשְׁתַּחְרְרָה וכו': If a woman gave birth when she was still a gentile and then converted, or if a woman gave birth when she was still a Canaanite maidservant and she was emancipated, and she subsequently gave birth to a male, that son is not a firstborn with regard to redemption from a priest, as he is not considered to have opened the womb (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:13; *Shulḥan Arukh*, *Yoreh De'a* 305:21).

If he married a woman who converted while she was pregnant or a Canaanite maidservant who was emancipated while pregnant – נִתְגַּיְּרָה מְעוּבֶּרֶת נִשְׁתַּחְרְרָה מְעוּבֶּרֶת: With regard to a gentile woman who converted when she was pregnant, or a Canaanite maidservant who was emancipated while she was pregnant, and she gave birth to a firstborn male, he is considered a firstborn with regard to redemption but is not a firstborn with regard to inheritance (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:13; *Tur*, *Ḥoshen Mishpat* 277 and *Baḥ* there; *Shulḥan Arukh*, *Yoreh De'a* 305:20).

A woman who did not wait, etc. – מִי שֶׁלֹּא שָׁהֲתָה וכו': With regard to woman who did not wait three months before remarrying and gave birth seven months later to a firstborn son, and it is unknown whether the child was born after a pregnancy of nine months and is the son of the first husband, or whether he was born after seven months and is the son of the second husband, the child is a firstborn with regard to redemption from a priest. Both possible fathers are exempt from redeeming him, due to the uncertainty, and he must redeem himself. He is not a firstborn with regard to inheritance (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:27 and *Sefer Mishpatim*, *Hilkhot Naḥalot* 5:3; *Shulḥan Arukh*, *Yoreh De'a* 305:30 and *Ḥoshen Mishpat* 277:11).

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גמ׳ אָמַר שְׁמוּאֵל: אֵין הָרֹאשׁ פּוֹטֵר בִּנְפָלִים.

GEMARA **Shmuel says:** In a case where **the head** of a fetus emerged and then went back into the womb, the offspring is not considered to have been born and **does not exempt** the next fetus from the obligation of redemption of the firstborn, e.g., if its twin brother was born first. Shmuel says this *halakha* specifically **in** a case of **miscarriage,**[H] i.e., where the fetus whose head emerged was a stillborn and the one that was eventually born first is a viable offspring. But in a case where both are viable offspring, the emergence of the head is considered birth.

מַאי טַעֲמָא? ״כֹּל אֲשֶׁר נִשְׁמַת רוּחַ חַיִּים בְּאַפָּיו״, כָּל הֵיכָא דְּנִשְׁמַת רוּחַ חַיִּים בְּאַפָּיו – הוּא דְּחָשֵׁיב רֵישֵׁיהּ, אִידָךְ – לָא חָשֵׁיב רֵישֵׁיהּ.

The Gemara asks: **What is the reason** for Shmuel's ruling? The verse states: **"All in whose nostrils was the breath of the spirit of life"** (Genesis 7:22), from which it is derived: **Anywhere that** one has **the breath of the spirit of life,** i.e., if it is viable, one goes **by its nostrils,** i.e., **its head is considered significant.** But with regard to **another** offspring, one that is not viable, **its head is not considered significant.**

תְּנַן: הַבָּא אַחַר נְפָלִים שֶׁיָּצָא רֹאשׁוֹ חַי וּבֶן תִּשְׁעָה שֶׁיָּצָא רֹאשׁוֹ מֵת. קָתָנֵי מִיהָא רֹאשׁוֹ! מַאי רֹאשׁוֹ – רוּבּוֹ.

The Gemara raises a difficulty: **We learned** in the mishna: What is a firstborn with regard to inheritance but not with regard to redemption from a priest? It is a son **who came after the miscarriage** of an underdeveloped fetus, even **where** the **head** of the underdeveloped fetus **emerged alive; and** a fully developed **nine**-month-**old** fetus **whose head emerged dead.** Although the mishna addresses a nine-month-old fetus as well, **in any event** it **teaches** with regard to a miscarriage that **its head** exempts the offspring born after it. The Gemara responds: **What** is the meaning of the term: **Its head?** It means its head and **most of** the body.

וְלֵיתְנֵי רוּבּוֹ! בְּדִין הוּא דְּאִיבָּעֵי לֵיהּ לְמֵיתְנֵי רוּבּוֹ, וַאֲיִידִי דְּקָא בָּעֵי לְמֵיתְנֵי סֵיפָא: בֶּן תִּשְׁעָה שֶׁיָּצָא רֹאשׁוֹ מֵת; טַעֲמָא – דְּרֹאשׁוֹ מֵת, הָא רֹאשׁוֹ חַי – הַבָּא אַחֲרָיו בְּכוֹר לְנַחֲלָה נַמִּי לָא הָוֵי, תְּנָא רֵישָׁא נַמִּי רֹאשׁוֹ.

The Gemara asks: **But** if so, **let** the mishna **teach: Most of it.** The Gemara answers: **By right,** the mishna **should have taught: Most of it, but** it did not do so, **since** in **the latter clause** of the mishna it **needs to teach:** A fully developed **nine**-month-**old** fetus **whose head emerged dead.** It is inferred from there that the **reason** the subsequent son is the firstborn with regard to inheritance is **that** the **head** of this fetus emerged **dead, but** if it was a nine-month-old fetus whose **head** emerged **alive,** then the fetus **that comes after it is not a firstborn with regard to inheritance either.** Therefore, the *tanna* of the mishna **taught** in **the first clause also** that **the head** of a miscarriage exempts the subsequent son, to maintain stylistic uniformity.

וּמַאי קָא מַשְׁמַע לָן, דְּבֵיוָן דְּמַפֵּיק לֵיהּ רֵישֵׁיהּ הֲוָה לֵידָה? תָּנֵינָא: הוֹצִיא רֹאשׁוֹ, אַף עַל פִּי שֶׁהֶחֱזִירוֹ – הֲרֵי זֶה כִּילּוּד!

The Gemara asks: **And** according to this interpretation, **what is** the mishna **teaching us?** Is it **that once** the offspring **reached out its head** from the womb **it is** considered **a birth? We learn** this in a mishna with regard to the fetus of an animal (*Ḥullin* 68a): If a fetus **reached out its head,**[H] **although it returned** the head, the halakhic status of **that** fetus is **like** that of **a newborn,** whose consumption is permitted only by its own slaughter.

HALAKHA

הָרֹאשׁ פּוֹטֵר בִּנְפָלִים – The head exempts in a case of miscarriage: In the case of twins, where the head of an eight-month-old fetus, which is treated as a stillborn, emerged while the fetus was still alive, and then returned into the womb and the fetus died, and likewise if it was dead when it emerged (Gra), and then its brother emerged alive, the second child is not considered to have opened the mother's womb and does not require redemption. This *halakha* is not in accordance with the opinion of Shmuel, as his ruling is rejected by the Gemara (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:15, and see *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:10; *Shulḥan Arukh*, *Yoreh De'a* 305:22–23, and see *Ḥoshen Mishpat* 277:6).

הוֹצִיא רֹאשׁוֹ – With regard to an animal, if a fetus reached out its head: If an animal encountered difficulty giving birth, and the fetus reached out its head, i.e., the majority of its forehead (*Shakh*), from its mother's womb, even if it brought it back, the fetus is considered born and is no longer permitted for consumption by the slaughter of its mother. Therefore, if the fetus is eight months old, either alive or dead, or nine months old but is dead, it is prohibited. If it is a live nine-month-old fetus, it is permitted for consumption by its own slaughter (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 5:15; *Shulḥan Arukh*, *Yoreh De'a* 14:1).

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NOTES

The animal has no concealed opening [*prozdor*] – בְּהֵמָה לֵית לָהּ פְּרוֹזְדוֹר: Most commentaries maintain that the term *prozdor*, which appears frequently with regard to the *halakhot* of a menstruating woman, is generally a euphemism for the vaginal canal. Of course, animals possess a vaginal canal as well, rendering this statement difficult to understand. Some suggest there are two locations in the body called *prozdor*. One of these is inside the body and is found both in humans and in animals, but the other, which is the *prozdor* mentioned here, is the thickness of the thighs, which covers the opening to the womb in humans. In animals this area is exposed (*Tosafot*). Others claim that even the *prozdor* mentioned elsewhere is not the vaginal canal itself but a more exterior part of the body (Rabbeinu Ḥananel on *Bava Batra* 24a). If so, the use of the term *prozdor* can consistently refer to one location.

וְכִי תֵּימָא: אַשְׁמוּעִינַן בְּהֵמָה וְקָא מַשְׁמַע לָן בְּאָדָם, דְּאָדָם מִבְּהֵמָה לָא יָלֵיף – דְּלֵית לָהּ פְּרוֹזְדוֹר,

And if you would say that the mishna there **teaches us** this *halakha* with regard to **animals, and** the mishna here **teaches us** that the same *halakha* applies **to a human,** this does not resolve the difficulty. The Gemara first explains why two rulings might be necessary with regard to people and animals: The reason is **that** the *halakha* of **a human cannot be derived from** that of **an animal, as** the animal **has no concealed opening,**[N] i.e., the opening of an animal's womb is not hidden. Consequently, one might have thought that only in the case of an animal is the emergence of the head considered a birth. By contrast, in humans, where the woman's thighs conceal the opening of the womb and the emergence of the head alone is not noticeable, perhaps the emergence of the head is not considered a full-fledged birth.

בְּהֵמָה מֵאָדָם לָא יָלְפָא – מִשּׁוּם דְּחָשֵׁיב פַּרְצוּף פָּנִים דְּיוֹדֵיהּ.

Conversely, had this ruling been taught only with regard to humans, one would have said that the *halakha* of **animals cannot be derived from** that of **a human because the countenance of** a person's **face is significant,** as people are created in the image of God. This is not so with regard to animals.

הָא נַמִי תָּנֵינָא: יָצָא כְּדַרְכּוֹ – מְשַׁיֵּיצֵא רוֹב רֹאשׁוֹ, וְאֵיזֶהוּ רוֹב רֹאשׁוֹ – מְשֻׁתְּצֵא פַּדַּחְתּוֹ! תְּיוּבְתָּא דִּשְׁמוּאֵל, תְּיוּבְתָּא.

After clarifying why both rulings are necessary, the Gemara explains why this does not resolve the difficulty: **We learn that** ruling with regard to people **also,** in a mishna (*Nidda* 28a): If the fetus **emerged in** the **usual manner,** head first, it is considered born only **when most of its head emerges.**[H] **And what is** considered **most of its head?** It is **from when its forehead emerges.** Accordingly, there was no need for the mishna here to state the *halakha* with regard to the head of a nine-month-old fetus, and the mention of a head with regard to a miscarriage contradicts the opinion of Shmuel. The Gemara comments: **The refutation of** the opinion of **Shmuel** is indeed **a conclusive refutation.**

אָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ: פַּדַּחַת פּוֹטֶרֶת בְּכָל מָקוֹם, חוּץ מִן הַנַּחֲלָה. מַאי טַעְמָא? ״יַכִּיר״ אָמַר רַחֲמָנָא. וְרַבִּי יוֹחָנָן אָמַר: אֲפִילּוּ לְנַחֲלָה.

§ Concerning this matter, **Rabbi Shimon ben Lakish says:** The emergence of **a forehead** alone in the case of a person **exempts,** i.e., is considered a birth, **in all cases, except with regard to inheritance.** If a son reached out his head alone and then brought it back, after which his twin brother was born, the second brother is the firstborn with regard to inheritance. **What is the reason? The Merciful One states:** "For **he shall recognize** the firstborn, the son of the hated, by giving him a double portion of all that he has" (Deuteronomy 21:17), and recognition is not attained by emergence of the forehead alone. **And Rabbi Yoḥanan says: Even with regard to inheritance**[H] the emergence of a forehead is sufficient.

HALAKHA

When most of its head emerges – מְשַׁיֵּיצֵא רוֹב רֹאשׁוֹ: If a woman gave birth and the fetus emerged in the usual manner with the head first, it is considered born when its forehead emerges, even if subsequent parts of the body come out in disconnected pieces. According to the *Shakh*, who bases his ruling on the Rambam, the same *halakha* applies if the majority of its forehead emerges. Therefore, the mother must observe the *halakhot* of ritual impurity of a woman who has given birth, as stated in the mishna on *Nidda* 28a (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 10:6; *Shulḥan Arukh*, *Yoreh De'a* 194:10 and *Ḥoshen Mishpat* 277:6).

The emergence of a forehead alone exempts in all cases… even with regard to inheritance – …פַּדַּחַת פּוֹטֶרֶת בְּכָל מָקוֹם… אֲפִילּוּ לְנַחֲלָה: If the forehead of a human offspring emerged, the offspring is considered born with regard to all matters. According to the Rambam, the same *halakha* applies if the majority of its forehead emerged; see *Kesef Mishne* and *Bedek HaBayit*. Consequently, if an eight-month-old fetus reached out its forehead while it was still alive, or if a nine-month-old was dead when it reached out its forehead, it exempts the subsequent son from the redemption of the firstborn. Similarly, if a nine-month-old reached out its forehead and then brought it back, and subsequently his brother was born, the first one is considered the firstborn with regard to inheritance. This follows the principle that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan in his disputes with Reish Lakish (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:15 and *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:2; *Shulḥan Arukh*, *Yoreh De'a* 305:22 and *Ḥoshen Mishpat* 277:6).

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״בְּכָל מָקוֹם״ לְאִיתוּיֵי מַאי – לְאִיתוּיֵי הָא דְּתָנוּ רַבָּנַן: גִּיּוֹרֶת שֶׁיָּצְאָה מִמֶּנָּה כַּדַּחַת וְלָדָה בְּגִיּוּתָהּ וְאַחַר כָּךְ נִתְגַּיְּירָה – אֵין נוֹתְנִין לָהּ יְמֵי טוּמְאָה וִימֵי טָהֳרָה, וְאֵינָהּ מְבִיאָה קָרְבַּן לֵידָה.

The Gemara asks: When Rabbi Shimon ben Lakish says the emergence of a forehead alone in the case of a person exempts **in all cases, what** does this comprehensive phrase serve **to include?** The Gemara answers that it serves **to include that which the Sages taught:** With regard to **a female convert whose offspring reached out its forehead** alone **in her gentile state, and then she converted** and gave birth to the entire child, **one does not assign to her the days of ritual impurity and the days of ritual purity** of a Jewish woman who gave birth. **And** likewise **she does not bring the offering** that a woman is obligated to sacrifice after giving **birth,** as the child is considered to have been born while the mother was still a gentile.

מֵיתִיבִי: ״יַכִּיר״ – זוֹ הַכָּרַת פָּנִים, וְאֵיזוֹ הִיא הַכָּרַת פָּנִים – פַּרְצוּף פָּנִים עִם הַחוֹטֶם! תְּנֵי: ״עַד הַחוֹטֶם״. תָּא שְׁמַע: אֵין מְעִידִים אֶלָּא עַל פַּרְצוּף פָּנִים עִם הַחוֹטֶם! תְּנֵי: ״עַד הַחוֹטֶם״.

The Gemara **raises an objection to** the opinion of Rabbi Yoḥanan from a *baraita*: When the verse states: **“He shall recognize”** (Deuteronomy 21:17), **this** is referring to **the recognition of the face. And what** exactly **is the recognition of the face?**[H] It is recognizing **the countenance of the face with the nose.** This indicates that the forehead alone is insufficient. The Gemara answers: **Teach** the *baraita* as saying: **Up to,** but not including, **the nose.** The Gemara suggests: **Come** and **hear** a mishna (*Yevamot* 120a): **One can testify** that a man died, in order to permit his wife to remarry, **only** if he can attest **to** seeing **the countenance of the face with the nose,** as this allows one to identify the individual definitively. Once again, the Gemara answers that one should **teach: Up to,** but not including, **the nose.**

תָּא שְׁמַע: כַּדַּחַת בְּלֹא פַּרְצוּף פָּנִים, פַּרְצוּף פָּנִים בְּלֹא כַּדַּחַת – אֵין מְעִידִין, עַד שֶׁיִּהוּ שְׁנֵיהֶם עִם הַחוֹטֶם; וְאָמַר אַבַּיֵי וְאִיתֵימָא רַב כָּהֲנָא: מַאי קְרָאָה – ״הַכָּרַת פְּנֵיהֶם עָנְתָה בָּם״! שָׁאנֵי עֵדוּת אִשָּׁה דְּאַחְמִירוּ בָּהּ רַבָּנַן.

The Gemara suggests: **Come** and **hear** another proof: If people saw **the forehead** of a dead person **without the countenance of the face,** or **the countenance of the face without the forehead, they cannot testify** that he died and render his wife permitted to remarry **until** they see **both** the countenance of the face and the forehead, **with the nose. And Abaye says, and some say** it was **Rav Kahana** who says: **What is the verse** from which it is derived? **“The recognition of their countenance does witness against them”** (Isaiah 3:9), and there is no recognition of a face without the nose. The Gemara answers: **Testimony** enabling **a woman** to remarry **is different, as the Sages were stringent with regard to it.**[N] Therefore, they required greater proof than with regard to the *halakhot* of a firstborn.

וּמִי אַחְמִירוּ? וְהָא תְּנַן: הוּחֲזְקוּ לִהְיוֹת מַשִּׂיאִים עַד מִפִּי עֵד, מִפִּי אִשָּׁה מִפִּי עֶבֶד מִפִּי שִׁפְחָה! כִּי אַקִּילוּ רַבָּנַן – בְּסוֹפָהּ, בִּתְחִלָּתָהּ – לָא אַקִּילוּ רַבָּנַן.

The Gemara asks: **And were the Sages stringent** with regard to this testimony? **But didn’t we learn** in a mishna (*Yevamot* 122a): The Sages **established** that they **would** allow a woman to **marry** again based on testimony that is generally not accepted, such as **testimony** based on **hearsay,**[H] i.e., the testimony of one man which was heard from another man who saw her husband die, **from a woman’s testimony, from** a Canaanite **slave’s testimony, or from** a Canaanite **maidservant’s testimony?** The Gemara answers that **when the Sages were lenient** it was **with regard to the end** of the testimony, i.e., to accept testimony that a husband had died even from individuals just mentioned. But **the Sages were not lenient with regard to its beginning,** i.e., the basic clarification of whether the witnesses properly identified the dead person when they saw him.

וְאִיבָּעֵית אֵימָא:

And if you wish, say instead that Rabbi Yoḥanan can resolve the difficulty as follows:

HALAKHA

And what exactly is the recognition of the face – וְאֵיזוֹ הִיא הַכָּרַת פָּנִים: If one found someone dead by natural causes or murdered, and his forehead, his nose, and the countenance of his face, i.e., his cheeks (Ramah), are intact and he recognized him as a particular individual based on those features, he can testify that the man is dead and the man’s wife may remarry based on that testimony, as stated in the mishna in tractate *Yevamot* 120a (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 13:21; *Shulḥan Arukh*, *Even HaEzer* 17:24).

The Sages established that they would allow a woman to marry based on hearsay testimony – הוּחֲזְקוּ לִהְיוֹת מַשִּׂיאִים עַד מִפִּי עֵד: If a woman’s husband went overseas and she received testimony that he had died, even if it was only from one witness, and even if the witness was a Canaanite slave, a woman, a relative, or a Canaanite maidservant; and even if it was testimony based on hearsay, including from a disqualified witness such as a Canaanite slave, a Canaanite maidservant, or a woman, all these are deemed credible in this case. Therefore, the woman is permitted to remarry, as stated in the mishna on *Yevamot* 122a (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 12:15; *Shulḥan Arukh*, *Even HaEzer* 17:3).

NOTES

Testimony enabling a woman to remarry is different as the Sages were stringent with regard to it – שָׁאנֵי עֵדוּת אִשָּׁה דְּאַחְמִירוּ בָּהּ רַבָּנַן: It can be inferred from the Gemara that the requirement to identify a dead husband’s face, specifically the cheeks and nose along with the forehead, in order to permit his wife to remarry, applies by rabbinic law. By Torah law, testimony with regard to the forehead alone is sufficient. The later commentaries note that according to the second resolution of the Gemara on 47a, there are separate standards for recognition of a firstborn and recognition of a dead face: By Torah law, testimony with regard to the countenance of the face is necessary in order to permit the woman to remarry (see *Otzar HaPoskim*, *Even HaEzer* 17:184, section 4).

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"יַכִּיר" לְחוּד, וְהַכָּרַת פָּנִים לְחוּד.

The requirement of "**He shall recognize**" with regard to a firstborn for inheritance, **and the recognition of** a husband's **face,** are **discrete** matters.

אִיתְּמַר, הָיוּ לוֹ בָּנִים בְּגֵיותוֹ וְנִתְגַּיֵּיר – רַבִּי יוֹחָנָן אוֹמֵר: אֵין לוֹ בְּכוֹר לְנַחֲלָה, וְרַבִּי שִׁמְעוֹן בֶּן לָקִישׁ אוֹמֵר: יֵשׁ לוֹ בְּכוֹר לְנַחֲלָה. רַבִּי יוֹחָנָן אוֹמֵר: אֵין לוֹ בְּכוֹר לְנַחֲלָה – דְּהָא הֲוָה לֵיהּ "רֵאשִׁית אוֹנוֹ", וְרַבִּי שִׁמְעוֹן בֶּן לָקִישׁ אוֹמֵר: יֵשׁ לוֹ בְּכוֹר לְנַחֲלָה – גֵּר שֶׁנִּתְגַּיֵּיר כְּקָטָן שֶׁנּוֹלַד דָּמֵי.

§ **It was stated** that *amora'im* engaged in a dispute concerning the case of a man who **had children when he** was **a gentile and he** subsequently **converted: Rabbi Yoḥanan says he does not have a firstborn with regard to inheritance,**[H] i.e., a son who is his firstborn after his conversion does not inherit a double portion; **and Rabbi Shimon ben Lakish says: He does have a firstborn with regard to inheritance.** The Gemara elaborates: **Rabbi Yoḥanan says: He does not have a firstborn with regard to inheritance, as** this man already **had "the first of his strength"** (Deuteronomy 21:17), the Torah's description of the firstborn in this context, before he converted. **And Rabbi Shimon ben Lakish says: He does have a firstborn with regard to inheritance,** as the halakhic status of **a convert who** just **converted** is **like** that of **a child** just **born.**

וְאָזְדוּ לְטַעֲמַיְיהוּ, דְּאִיתְּמַר: הָיוּ לוֹ בָּנִים בְּגֵיותוֹ וְנִתְגַּיֵּיר – רַבִּי יוֹחָנָן אָמַר: קִיֵּים פְּרִיָּה וּרְבִיָּה, וְרַבִּי שִׁמְעוֹן בֶּן לָקִישׁ אָמַר: לֹא קִיֵּים. רַבִּי יוֹחָנָן אָמַר: קִיֵּים "לֹא תֹהוּ בְּרָאָהּ לָשֶׁבֶת יְצָרָהּ", וְרַבִּי שִׁמְעוֹן בֶּן לָקִישׁ אָמַר: לֹא קִיֵּים פְּרִיָּה וּרְבִיָּה – גֵּר שֶׁנִּתְגַּיֵּיר כְּקָטָן שֶׁנּוֹלַד דָּמֵי.

The Gemara comments: **And** these *amora'im* **follow their** regular line of **reasoning, as it was stated:** If a man **had children when he** was **a gentile and he** subsequently **converted, Rabbi Yoḥanan says: He has** already **fulfilled** the mitzva to **be fruitful and multiply,**[HN] **and Rabbi Shimon ben Lakish says:** He has **not fulfilled** the mitzva to be fruitful and multiply. The Gemara clarifies: **Rabbi Yoḥanan says he has fulfilled** the aspect of the mitzva to be fruitful and multiply expressed in the command: "**He did not create it to be a waste; He formed it to be inhabited**" (Isaiah 45:18), i.e., to increase the inhabitation of the world. **And Rabbi Shimon ben Lakish says he has not fulfilled** the mitzva to **be fruitful and multiply,** as the halakhic status of **a convert who** just **converted** is **like** that of **a child** just **born,** and it is considered as though he did not have children.

וְצָרִיכָא, דְּאִי אִיתְּמַר בְּהָא קַמַּיְיתָא – בְּהָא קָאָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ, מִשּׁוּם דִּבְגֵיותָן לָאו בְּנֵי נַחֲלָה נִינְהוּ, אֲבָל בְּהָא – אֵימָא מוֹדֶה לֵיהּ לְרַבִּי יוֹחָנָן דְּ"לֹא תֹהוּ בְּרָאָהּ לָשֶׁבֶת יְצָרָהּ", וְהָא עֲבַד לֵיהּ שֶׁבֶת;

The Gemara adds: **And** it is **necessary** to state their opinions in both cases. **As, if it were stated** only **in that first** case with regard to inheritance, perhaps it is only **in that** case that **Rabbi Shimon ben Lakish says** his opinion that the first son born after conversion inherits a double portion, **because in their gentile state they are not subject to** the *halakhot* of **inheritance.**[N] **But with regard to that** case, the mitzva to be fruitful and multiply, **say he concedes to Rabbi Yoḥanan that** since the verse states: "**He did not create it to be a waste; He formed it to be inhabited,**" **and he has** indeed **performed** an action that enables the world to be further **inhabited,** he has therefore fulfilled the mitzva.

HALAKHA

A firstborn with regard to inheritance – לְעִנְיַן בְּכוֹר לְנַחֲלָה: If a gentile who already had children converted and then fathered another son, that son is not considered a firstborn with regard to the *halakhot* of inheritance, in accordance with the opinion of Rabbi Yoḥanan (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:12; *Shulḥan Arukh*, *Ḥoshen Mishpat* 277:9).

When he was a gentile…he has fulfilled the mitzva to be fruitful and multiply – בְּגֵיותוֹ...קִיֵּים פְּרִיָּה וּרְבִיָּה: If a gentile had children and subsequently converted to Judaism, he has fulfilled the mitzva to be fruitful and multiply through them if his children converted as well, in accordance with the opinion of Rabbi Yoḥanan. According to some authorities, he has fulfilled the mitzva even if his children did not convert (Rambam *Sefer Nashim*, *Hilkhot Ishut* 15:6; *Shulḥan Arukh*, *Even HaEzer* 1:7, and see *Beur HaGra* there).

NOTES

He has already fulfilled the mitzva to be fruitful and multiply – קִיֵּים פְּרִיָּה וּרְבִיָּה: It can be inferred from the Gemara's explanation of Rabbi Yoḥanan's opinion, and even more clearly from the parallel discussion in *Yevamot* 62a, that this convert fulfilled the mitzva to be fruitful and multiply while he was a gentile (*Tosafot* on *Yevamot* 62a; Maharil 196). By contrast, the Rambam (*Sefer Nashim*, *Hilkhot Ishut* 15:6) maintains this is referring to a case where the gentile's sons converted with him, and therefore he now has Jewish children. If so, the clause: He has fulfilled the mitzva to be fruitful and multiply, means he fulfills the mitzva now when he and his children convert.

In their gentile state they are not subject to the *halakhot* of inheritance – בְּגֵיותָן לָאו בְּנֵי נַחֲלָה נִינְהוּ: The straightforward understanding of the Gemara appears to be that a gentile son does not inherit from his gentile father, and this is the explanation of Rabbeinu Gershom Meor HaGola. This contradicts the Gemara in tractate *Kiddushin* (18a), which states that by Torah law a gentile son does inherit from his gentile father, and only a convert does not inherit from his gentile father by Torah law. Therefore, Rashi here explains this statement as referring to a case where the gentile son converted. Others explain this as referring to the *halakha* of a firstborn, i.e., even when a gentile inherits from his gentile father, the *halakha* of the double portion of a firstborn does not apply to him (*Tosafot*).

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וְאִי אִיתְּמַר בְּהָא – בְּהָא קָאָמַר רַבִּי יוֹחָנָן, אֲבָל בְּהָא – אֵימָא מוֹדֶה לֵיהּ לְרַבִּי שִׁמְעוֹן בֶּן לָקִישׁ, צְרִיכָא.

And conversely, **if** their dispute **were stated** only **with regard to this** mitzva to be fruitful and multiply, perhaps it is only **in this** case that **Rabbi Yoḥanan says** his opinion, due to the verse: "He formed it to be inhabited." **But with regard to that** case of inheritance, **say he concedes to Rabbi Shimon ben Lakish** that sons born when one was a gentile are disregarded. Consequently, it is **necessary** to teach their opinions in both disputes.

תְּנַן: מִי שֶׁלֹּא הָיוּ לוֹ בָּנִים, וְנָשָׂא אִשָּׁה שֶׁכְּבָר יָלְדָה עוֹדָהּ שִׁפְחָה וְנִשְׁתַּחְרְרָה, עוֹדָהּ גּוֹיָה וְנִתְגַּיְּרָה, וּמְשֻׁבָּאתָה לְיִשְׂרָאֵל יָלְדָה – וְלָדָהּ בְּכוֹר לְנַחֲלָה וְאֵינוֹ בְּכוֹר לַכֹּהֵן.

The Gemara raises a difficulty concerning the opinion of Rabbi Yoḥanan: **We learned** in the mishna: **One who did not have sons and he married a woman who had already given birth;** or if he married a woman who gave birth when **she was still** a Canaanite **maidservant and she was** then **emancipated;** or one who gave birth when **she was still a gentile and she** then **converted, and when** the maidservant or the gentile **came to** join **the Jewish people she gave birth** to a male, that **offspring is a firstborn with regard to inheritance but is not a firstborn with regard to** redemption from **a priest.**

יָלְדָה מִמַּאן? אִילֵימָא מִישְׂרָאֵל שֶׁלֹּא הָיוּ לוֹ בָּנִים – מַאי אִירְיָא גּוֹיֶרֶת וְשִׁפְחָה? אֲפִילּוּ בַּת יִשְׂרָאֵל נַמִּי!

The Gemara analyzes the mishna: This maidservant or convert, whose child that was born when she came to join the Jewish people is a firstborn for inheritance, **from whom,** i.e., from what type of father, **did she bear** him? **If we say** she bore him **from a Jew who did not** previously **have sons,** the initial subject of this clause of the mishna, **why** does it make reference **specifically** to **a gentile or a maidservant,** indicating that this son is a firstborn for inheritance because the ones born when she was not Jewish are disregarded? The *halakha* would be the same **even** with regard to **a Jewish woman** who had already given birth.

אֶלָּא לָאו – מִגֵּר שֶׁהָיוּ לוֹ בָּנִים וְנִתְגַּיֵּיר; וְקָתָנֵי: בְּכוֹר לְנַחֲלָה!

Rather, is the mishna **not** referring to two distinct cases? The first concerns a man who already had children before converting, and then marries a Jew who has already given birth to children, while the second involves a woman who had children when she was a maidservant or a gentile, and when she became Jewish she bore a child **from** one like her, **a convert who had sons** when he was a gentile **and** then **converted. And** the mishna **teaches** that this son **is a firstborn with regard to inheritance,** which apparently contradicts the opinion of Rabbi Yoḥanan.

לָא, לְעוֹלָם מִישְׂרָאֵל שֶׁלֹּא הָיוּ לוֹ בָּנִים; וְ"אֵינוֹ בְּכוֹר לַכֹּהֵן" אִיצְטְרִיכָא לֵיהּ,

The Gemara answers: **No; actually,** her child was born **from a Jew who did not have sons, and** the reason the mishna makes reference specifically to a gentile or a maidservant is not due to the case of inheritance. Rather, it **was necessary for** the clause: But **is not a firstborn with regard to** redemption from **a priest.**

לְאַפּוּקֵי מִדְּרַבִּי יוֹסֵי הַגְּלִילִי, דְּאָמַר: בְּכוֹר לְנַחֲלָה וְלַכֹּהֵן, שֶׁנֶּאֱמַר: "פֶּטֶר רֶחֶם בְּיִשְׂרָאֵל" – עַד שֶׁיִּפְּטְרוּ רֶחֶם מִיִּשְׂרָאֵל, קָא מַשְׁמַע לָן דְּלָא.

This statement serves **to exclude** the opinion **of Rabbi Yosei HaGelili, who says:** That son **is a firstborn with regard to inheritance and with regard to** redemption from **a priest, as it is stated:** "Whatever **opens the womb among** the children of **Israel"** (Exodus 13:2), i.e., one is not considered a firstborn **unless he opens the womb** of a woman **from the Jewish people,** and therefore the children that she bore before she converted are not considered to have opened her womb. Therefore, the first *tanna* of the mishna **teaches us that** he is **not** a firstborn with regard to redemption, as his mother's womb was already opened when she was a gentile.

תָּא שְׁמַע: הָיוּ לוֹ בָּנִים בְּגִיּוּתוֹ וְנִתְגַּיֵּיר – יֵשׁ לוֹ בְּכוֹר לְנַחֲלָה! אָמַר רָבִינָא וְאִיתֵימָא רַב אַחָא: הָא וַדַּאי רַבִּי יוֹסֵי הַגְּלִילִי הוּא, דְּאָמַר: "פֶּטֶר רֶחֶם בְּיִשְׂרָאֵל" – עַד שֶׁיִּפְּטְרוּ רֶחֶם מִיִּשְׂרָאֵל, וְלֵילֵיף אִיהוּ מִינָּהּ דִּידָהּ.

The Gemara suggests: **Come** and **hear** a proof against Rabbi Yoḥanan from a *baraita*: **If** a man **had sons when he was a gentile and he converted,** and then fathered more sons, **he has a firstborn with regard to inheritance. Ravina says, and some say** it is **Rav Aḥa** who says: **This** ruling **is certainly** in accordance with the opinion of **Rabbi Yosei HaGelili, who says** that the phrase in the verse "whatever **opens the womb among** the children of **Israel"** means it is not a firstborn **unless it opens the womb** of a woman **from the Jewish people. And** he **derives his** *halakha*, that of a gentile who converted, **from her** *halakha*, that of a female convert, that one does not take into account the children born before they converted. Rabbi Yoḥanan may hold in accordance with the opinion of the Rabbis, who disagree with Rabbi Yosei HaGelili.

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HALAKHA

The daughter of a Levite who became pregnant from a gentile – לְוִיָּה דְּאִיעַבַּר מִגּוֹי: If the daughter of a Levite became pregnant from a gentile and gave birth to a firstborn son, he is exempt from redemption. This *halakha* is in accordance with the opinion of Rav Adda bar Ahava, as explained by Rav Pappa (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:11; *Shulḥan Arukh*, *Yoreh De'a* 305:18).

One does not disqualify the child due to his gentile father – אֵין מְזַהֲמִין אֶת הַוָּלָד: The child of a gentile and a Jewish woman is a Jew of fit lineage, whether or not the couple was married. Any daughter of theirs is disqualified from marrying a priest. This ruling is in accordance with the conclusion of the Gemara on *Yevamot* 45b (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 15:3; *Shulḥan Arukh*, *Even HaEzer* 4:19).

The daughter of a Levite became pregnant from an Israelite – דְּאִיעַבַּר מִיִּשְׂרָאֵל: If the daughter of a priest or the daughter of a Levite was married to an Israelite and she gave birth to a son who opened his mother's womb, he is exempt from redemption because the obligation depends on the mother's womb. This ruling is in accordance with the opinion of Rav Adda bar Ahava, as explained by Mar, son of Rav Yosef (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:10; *Shulḥan Arukh*, *Yoreh De'a* 305:18).

אָמַר רַב אַדָּא בַּר אַהֲבָה: לְוִיָּה שֶׁיָּלְדָה – בְּנָהּ פָּטוּר מֵחֲמֵשׁ סְלָעִים. דְּאִיעַבַּר מִמַּאן? אִילֵימָא דְּאִיעַבַּר מִכֹּהֵן וּמְלֵוִי – מַאי אִירְיָא לְוִיָּה? אֲפִילּוּ יִשְׂרְאֵלִית נַמִי!

§ **Rav Adda bar Ahava says:** With regard to the daughter of **a Levite who gave birth** to a firstborn boy, **her son is exempt from** the obligation to give **five *sela*** coins to the priest for his redemption, as the child is considered to be the son of a Levite and Levites are exempt from this obligation. The Gemara asks: **From whom did she become pregnant? If we say that she became pregnant from a priest or a Levite, why** does Rav Adda bar Ahava refer **specifically** to the daughter of **a Levite?** The *halakha* would be the same **even** for **an Israelite woman** who became pregnant from a priest or a Levite.

אֶלָּא דְּאִיעַבַּר מִיִּשְׂרָאֵל – ״לְמִשְׁפְּחֹתָם לְבֵית אֲבֹתָם״ כְּתִיב!

Rather, Rav Adda bar Ahava must be referring to a case **where** the daughter of a Levite **became pregnant from an Israelite.** But if so, why is the son's status determined by his mother's status in this instance? After all, **it is written: "By their families, by their fathers' houses"** (Numbers 1:2), which indicates that the lineage of a Jewish family follows the father rather than the mother.

אָמַר רַב פַּפָּא: דְּאִיעַבַּר מִגּוֹי. וְלָא תֵּימָא אַלִּיבָּא דְּמַאן דְּאָמַר: אֵין מְזַהֲמִין אֶת הַוָּלָד, אֶלָּא אֲפִילּוּ לְמַאן דְּאָמַר: מְזַהֲמִין אֶת הַוָּלָד – לֵוִי פָּסוּל מִיקְּרֵי.

Rav Pappa says: This is referring to the daughter of a Levite **who became pregnant from a gentile.**[H] In such a case, the son's status is determined by that of the mother, and therefore the son is exempt from the redemption of the firstborn. **And do not say** this is the *halakha* only **according to the one who says** that in such a situation **one does not disqualify the child** at all due to his gentile father,[H] and he is of fit lineage. **Rather, even according to the one who says** that **one does disqualify the child** due to the gentile father,[N] nevertheless, one also follows the mother **and he is** therefore **called a Levite** of **flawed** lineage, and is exempt from redemption.

מָר בְּרֵיהּ דְּרַב יוֹסֵף אָמַר מִשְּׁמֵיהּ דְּרָבָא: לְעוֹלָם דְּאִיעַבַּר מִיִּשְׂרָאֵל, וְשָׁאנִי הָתָם דְּאָמַר קְרָא: ״פֶּטֶר רֶחֶם״ – בְּפֶטֶר רֶחֶם תְּלָא רַחֲמָנָא.

Mar, son of Rav Yosef, says a different explanation, **in the name of Rava: Actually,** Rav Adda bar Ahava is referring to a case **where** the daughter of a Levite **became pregnant from an Israelite.**[H] **And** although the son's status is usually determined by that of the father, **there,** with regard to the redemption of the firstborn, **it is different, as the verse states:** "Whatever **opens the womb** among the children of Israel" (Exodus 13:2). This teaches that **the Merciful One renders** the obligation **dependent upon the opening of the womb,** and since this firstborn came from the womb of a daughter of a Levite, and not a Levite, the obligation of redemption does not apply.

תְּנַן: מִי שֶׁהָיוּ לוֹ בָּנִים וְנָשָׂא אִשָּׁה שֶׁלֹּא יָלְדָה; נִתְגַּיְּרָה מְעוּבֶּרֶת, נִשְׁתַּחְרְרָה מְעוּבֶּרֶת;

The Gemara raises a difficulty concerning the opinion of Rav Pappa: **We learned** in the mishna: **One who had sons and married a woman who had not given birth;** or a woman who **converted while** she was **pregnant,** or a Canaanite maidservant who **was emancipated while** she was **pregnant** and she gave birth to a son, he is a firstborn with regard to redemption from a priest but he is not a firstborn with regard to inheritance.

וְיָלְדָה הִיא וְכֹהֶנֶת, הִיא וּלְוִיָּה, הִיא וְאִשָּׁה שֶׁכְּבָר יָלְדָה; וְכֵן מִי שֶׁלֹּא שָׁהֲתָה אַחֲרֵי בַּעְלָהּ שְׁלֹשָׁה חֳדָשִׁים, וְנִשֵּׂאת וְיָלְדָה, וְאֵין יָדוּעַ אִם בֶּן תִּשְׁעָה לָרִאשׁוֹן אִם בֶּן שִׁבְעָה לָאַחֲרוֹן – בְּכוֹר לַכֹּהֵן וְאֵינוֹ בְּכוֹר לְנַחֲלָה.

And likewise, if an Israelite woman **and** the daughter or wife of **a priest,** neither of whom had given birth yet, or an Israelite woman **and** the daughter or wife of **a Levite,** or an Israelite woman **and a woman who had already given birth, gave birth,** and it is uncertain which son was born to which mother; **and likewise** a woman **who did not wait three months after** the death of **her husband and she married and gave birth, and it is unknown whether** the child was born after **nine months** and is **the son of the first** husband, or **whether** he was born after **seven months** and is **the son of the latter** husband, in all these cases the child is **a firstborn with regard to** redemption from **a priest but is not a firstborn with regard to inheritance.**

NOTES

One does disqualify [*mezahamin*] the child due to the gentile father – מְזַהֲמִין אֶת הַוָּלָד: The early commentaries disagree over the meaning of the term *mezahamin*. Their dispute stems from the different opinions with regard to the whether the child of a gentile and a Jewish woman is a Jew of fit lineage, a *mamzer*, or not Jewish at all. Rashi explains that this child is a Jew according to all opinions, and the dispute concerns whether one gives him the status of a *mamzer* or not. Others maintain that according to both opinions he is a Jew of unfit lineage, and they explain that the dispute with regard to *mezahamin* concerns whether or not the child is a gentile (*Tosafot*). As proof, *Tosafot* cite sources where the term *zuhama* is applied by the Sages to gentiles. According to this explanation, one opinion is that the child is not considered like a gentile but like a Jewish *mamzer*. Conversely, the other opinion is that the child has the status of his father the gentile, although he has the possibility of converting and becoming a Jew of fit lineage.

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מִכְּלָל דִּכְהוּנָּה וּלְוִיָּה פְּטוּרִין; דְּאִיעַבַּר מִמַּאן? אִילֵימָא דְּאִיעַבַּר מִכֹּהֵן וְלֵוִי – אִי הָכִי מַאי אִירְיָא כֹּהֶנֶת וּלְוִיָּה? אֲפִילּוּ בַּת יִשְׂרָאֵל נַמִי!

The Gemara explains the difficulty: From the ruling in the case of one whose child became confused with that of a daughter of a priest or a Levite, **by inference** one can derive **that** the daughter of **a priest and** the daughter of **a Levite** are **exempt** from redemption. Now, **from whom did she become pregnant? If we say that she became pregnant from a priest or a Levite, if so, why specifically** mention the daughter of **a priest and** the daughter of **a Levite?** The same *halakha* would apply **even** in the case of **an Israelite woman** who became pregnant from a priest or a Levite, as the son is exempt from redemption because he is also a priest or a Levite.

אֶלָּא דְּאִיעַבַּר מִגּוֹי – כֹּהֶנֶת פְּטוּרָה? וְהָאָמַר רַב פַּפָּא, בָּדִיק לָן רַבָּה: כֹּהֶנֶת שֶׁנִּתְעַבְּרָה מִגּוֹי מַהוּ? וְאָמְרִינָא לֵיהּ: לָאו הַיְינוּ דְּרַב אַדָּא בַּר אַהֲבָה, דְּאָמַר: לְוִיָּה שֶׁיָּלְדָה – בְּנָהּ פָּטוּר מֵחָמֵשׁ סְלָעִים?

Rather, if the case is **where** the daughter of a priest or the daughter of a Levite **became pregnant from a gentile,** then is the son of **the daughter of a priest exempt? But didn't Rav Pappa say: Rabba tested us** on the following matter: With regard to the daughter of **a priest who became pregnant from a gentile,**[H] **what is** the *halakha*? **And we said to him: Isn't this** the case discussed **by Rav Adda bar Ahava, who says:** With regard to the daughter of **a Levite who gave birth** to a firstborn boy, **her son is exempt from** the obligation to give **five *sela*** coins? This ruling was interpreted as referring to one who became pregnant from a gentile.

וַאֲמַר לִי: הָכִי הָשְׁתָּא? בִּשְׁלָמָא לְוִיָּה – בִּקְדוּשָּׁתָהּ קַיְימָא, דְּתַנְיָא: לְוִיָּה שֶׁנִּשְׁבֵּית אוֹ שֶׁנִּבְעֲלָה בְּעִילַת זְנוּת – נוֹתְנִין לָהּ מִן הַמַּעֲשֵׂר וְאוֹכֶלֶת.

Rav Pappa continues: **And** Rabba **said to me: How can** these cases **be compared? Granted,** if the daughter of **a Levite** has a child from a gentile, he is considered a Levite with regard to redemption since his mother **retains her sanctity. As it is taught** in a *baraita*: In the case of **a Levite woman who was captured,** leading to a concern that one of her captors might have engaged in sexual intercourse with her, **or** even **if** a Levite woman definitely **engaged in licentious sexual intercourse,** one nevertheless **gives her** first **tithe**[H] **and she may eat** it.

אֶלָּא כֹּהֶנֶת, כֵּיוָן דְּאִי בָּעֵיל לָהּ – הָוְיָא זָרָה!

But with regard to the daughter of **a priest, since if** a gentile **engages in intercourse with her she becomes** like **a non-priest**[H] and may no longer partake of *teruma*, her son from a gentile should be considered like an Israelite and be obligated in the redemption of a firstborn. If so, in what case does the mishna exempt the son of a daughter of a priest or a daughter of a Levite from redemption?

הָנִיחָא לְמָר בְּרֵיהּ דְּרַב יוֹסֵף מְשַׁמֵּיהּ דְּרָבָא, דְּאָמַר דְּאִיעַבַּר מִיִּשְׂרָאֵל – מוֹקֵי לָהּ בְּדְאִיעַבַּר מִיִּשְׂרָאֵל. אֶלָּא לְרַב פַּפָּא, בְּמַאי מוֹקֵי לָהּ?

The Gemara notes: **This works out well according to** the opinion of **Mar, son of Rav Yosef,** citing **in the name of Rava, who says** that Rav Adda bar Ahava, who deems the son of a Levite woman exempt from the obligation of redemption, was referring to a case **where** she **became pregnant from an Israelite.** This is because he can **interpret** the mishna **as** referring **to** the daughter of a priest or the daughter of a Levite **who became pregnant from an Israelite. But according to** the opinion of **Rav Pappa,** who maintains that the son of a priest's or Levite's daughter who became pregnant from an Israelite is subject to the obligation of redemption from a priest, **with regard to what** case does he **interpret** the mishna?

HALAKHA

The daughter of a priest who became pregnant from a gentile – כֹּהֶנֶת שֶׁנִּתְעַבְּרָה מִגּוֹי: If the daughter of a priest became pregnant from a gentile and gave birth to a son who opened his mother's womb, he is obligated in redemption. The reason is that his mother was disqualified from the priesthood due to engaging in intercourse with the gentile. The obligation of redemption applies to the son (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:11; *Shulḥan Arukh*, *Yoreh De'a* 305:18, and see *Shakh* there).

A Levite woman who was captured…one gives her first tithe – לְוִיָּה שֶׁנִּשְׁבֵּית…נוֹתְנִין לָהּ מִן הַמַּעֲשֵׂר: If a Levite woman was captured, or if a Levite woman engaged in licentious sexual intercourse, she is still permitted to partake of first tithe provided that its *teruma* has been separated from it. The reason is that first tithe at that point has no sanctity at all (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 1:2).

If a gentile engages in intercourse with her she becomes like a non-priest – אִי בָּעֵיל לָהּ הָוְיָא זָרָה: If the daughter of a priest engages in intercourse with a gentile she is considered a prostitute, and her status is like that of all those disqualified from the priesthood, i.e., she is like a non-priest in all regards (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 18:2 and *Sefer Zera'im*, *Hilkhot Terumot* 6:7).

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לְעוֹלָם דְּאִיעַבַּר מִכֹּהֵן וְהִיא בַּת יִשְׂרָאֵל, וְאַמַּאי קָרֵי לָהּ "כֹּהֶנֶת" – דִּבְנָהּ כֹּהֵן.

The Gemara answers: **Actually,** the mishna is not referring to the daughter of a priest but to a woman **who became pregnant from a priest.** Therefore, her son is exempt from redemption, **and** yet **she** herself is **an Israelite woman. And why does** the mishna **call her** the daughter of **a priest** [***kohenet***]**? Because her son is a priest.**

Perek **VIII**
Daf **47** Amud **b**

HALAKHA

A priest who died and left a son who was a *ḥalal* – כֹּהֵן שֶׁמֵּת וְהִנִּיחַ בֵּן חָלָל: With regard to a priest who had a *ḥalal* son, and the father died within thirty days of the birth of his son, that son is obligated to redeem himself. If the father died after thirty days of his birth, the son is not obligated to redeem himself, since it is considered as if his father acquired his redemption money and the son inherited it. The *halakha* is in accordance with the opinion of Rav Ḥisda, as Reish Lakish agrees with this opinion. In practice, the son should set aside money for the redemption and keep it for himself (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:12; *Shulḥan Arukh*, *Yoreh De'a* 305:19).

A woman who did not wait three months after the death of her husband – מִי שֶׁלֹּא שָׁהֲתָה אַחֲרֵי בַּעְלָהּ שְׁלֹשָׁה חֳדָשִׁים: With regard to a woman who did not wait three months after the death of her husband, but remarried and gave birth seven months later, and it is unknown whether the child was born after a pregnancy of nine months and is the son of the first husband, or whether he was born after seven months and is the son of the second husband, the son born after him is not a firstborn with regard to inheritance. Furthermore, the two sons cannot claim the double share of the firstborn together even if they wrote an authorization to one another, as explained by Rabbi Yirmeya (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 5:3; *Shulḥan Arukh*, *Ḥoshen Mishpat* 277:11, in the comment of Rema).

BACKGROUND

***Ḥalal* – חָלָל:** A *ḥalal* is a person disqualified from the priesthood, such as a son born to a priest and a woman whom the priest is prohibited to marry, e.g., a divorcée or a *zona*. Although the priest is considered the father of the *ḥalal*, the son does not have the halakhic status of a priest but that of an Israelite. A daughter born of such a forbidden relationship may not marry a priest.

NOTES

I come due to the strength of a man with whom you cannot enter into judgment – אֲתֵינָא מִכֹּחַ גַּבְרָא דְּלָא מָצֵית לְאִשְׁתַּעוּיֵי דִּינָא בַּהֲדֵיהּ: Rav Ḥisda, who rejects this claim, would contend that the obligation of the son to redeem himself when he comes of age does not stem from his father's obligation to redeem him but is a new obligation that applies to him. Alternatively, he holds that the entire mitzva of redemption applies first and foremost to the firstborn himself, but as he is a minor and cannot fulfill the mitzva, in practice his father is generally required to perform it for him (Responsa of the Rivash, 131; *Ḥiddushei Batra*).

LANGUAGE

Lineage [*ḥayis*] – חַיִּיס: Through metathesis, this word is related to the word *yiḥus*, meaning familial lineage. It is generally used to describe the most basic familial ties, e.g., the connection between a parent and child.

אִיתְּמַר, כֹּהֵן שֶׁמֵּת וְהִנִּיחַ בֵּן חָלָל – רַב חִסְדָּא אָמַר: הַבֵּן חַיָּיב לִפְדּוֹת אֶת עַצְמוֹ, רַבָּה בַּר רַב הוּנָא אָמַר: אֵין חַיָּיב לִפְדּוֹת אֶת עַצְמוֹ. כָּל הֵיכָא דְּמֵת הָאָב לְאַחַר שְׁלֹשִׁים – דִּכְוָלֵי עָלְמָא לָא פְּלִיגִי דְּאֵין הַבֵּן חַיָּיב לִפְדּוֹת אֶת עַצְמוֹ, שֶׁהֲרֵי זָכָה אָבִיו בִּפְדְיוֹנוֹ.

§ It **was stated** that in the case of **a priest who** married a divorcée and then **died and left a son** who was **a priest disqualified due to flawed lineage** [***ḥalal***][HB] and has the status of a non-priest, **Rav Ḥisda says: The son is obligated to redeem himself. Rabba bar Rav Huna says: He is not obligated to redeem himself.** The Gemara explains: **In any** case **that the father died after thirty** days following the birth of the son, at which point the father was already obligated in his redemption, **everyone agrees that the son is not obligated to redeem himself, as his father acquired his redemption** money, i.e., it is as though he separated five *sela* coins and took the money for himself, since he is a priest.

כִּי פְּלִיגִי – הֵיכָא דְּמֵת הָאָב בְּתוֹךְ שְׁלֹשִׁים יוֹם, רַב חִסְדָּא אָמַר: הַבֵּן חַיָּיב לִפְדּוֹת אֶת עַצְמוֹ, דְּהָא לֹא זָכָה אָבִיו לִפְדְיוֹנוֹ. רַבָּה בַּר רַב הוּנָא אָמַר: אֵין הַבֵּן חַיָּיב לִפְדּוֹת עַצְמוֹ, דְּאָמַר לֵיהּ: אָתֵינָא מִכֹּחַ גַּבְרָא דְּלָא מָצֵית לְאִשְׁתַּעוּיֵי דִּינָא בַּהֲדֵיהּ.

They disagree when the father died within thirty days of the birth of the son, before the obligation of redemption had taken effect. **Rav Ḥisda says the son is obligated to redeem himself, as his father did not acquire his redemption** money. **Rabba bar Rav Huna says the son is not obligated to redeem himself, as** he can **say to** a priest who demands the redemption money from him: **I come due to the strength of a man with whom you cannot enter into judgment,**[N] i.e., if my father were alive he would have separated five *sela* coins and taken the money for himself, and I inherit his claim.

תְּנַן: נִתְגַּיְּירָה מְעוּבֶּרֶת – בְּכוֹר לַכֹּהֵן; וְאַמַּאי? לֵימָא לֵיהּ: אָתֵינָא מִכֹּחַ גַּבְרָא דְּלָא מָצֵית לְאִשְׁתַּעוּיֵי דִּינָא בַּהֲדֵיהּ! שָׁאנֵי גּוֹי, דְּלֵית לֵיהּ חַיִּיס.

The Gemara raises a challenge to the opinion of Rabba bar Rav Huna: **We learned** in the mishna: If one married a woman who **converted while** she was **pregnant,** having been impregnated by a gentile, the child is **a firstborn with regard to** redemption from **a priest** and must redeem himself. **But why** is this the *halakha*? **Let** this son **say to** the priest: **I come due to the strength of a man with whom you cannot enter into judgment,** as his father is a gentile, from whom the redemption money cannot be claimed. The Gemara responds: The case of **a gentile is different, as he has no lineage** [***ḥayis***],[L] i.e., this man is not considered his father's son at all.

אָמַר רַבִּי שִׁמְעוֹן יַאסִינָיָא אָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ: כֹּהֵן שֶׁמֵּת בְּתוֹךְ שְׁלֹשִׁים וְהִנִּיחַ בֵּן חָלָל – הַבֵּן חַיָּיב לִפְדּוֹת אֶת עַצְמוֹ, שֶׁלֹּא זָכָה הָאָב בִּפְדְיוֹנוֹ; מֵת לְאַחַר שְׁלֹשִׁים יוֹם – אֵין הַבֵּן חַיָּיב לִפְדּוֹת עַצְמוֹ, שֶׁהֲרֵי זָכָה הָאָב בִּפְדְיוֹנוֹ.

On this matter, the Gemara notes that **Rabbi Shimon Yasinia says** that **Rabbi Shimon ben Lakish says,** in accordance with the opinion of Rav Ḥisda: With regard to **a priest who died within thirty** days of the birth of his son **and left a son** who was **a *ḥalal*, the son is obligated to redeem himself, as the father** did **not acquire his redemption** money. If the father **died after thirty days** following the birth of the son, **the son is not obligated to redeem himself, as his father** already **acquired his redemption** money.

"וְכֵן מִי שֶׁלֹּא שָׁהֲתָה אַחֲרֵי בַּעְלָהּ שְׁלֹשָׁה חֳדָשִׁים" וכו'.

§ The mishna teaches: **And likewise** a woman **who did not wait three months after** the death of **her husband**[H] and she married and gave birth and it is unknown whether the son was born after a pregnancy of nine months and is the son of the first husband, or after seven months and is the son of the second husband, the son is a firstborn with regard to redemption from a priest but is not a firstborn with regard to inheritance.

בְּכוֹר לְנַחֲלָה הוּא דְּלָא הָוֵי, הָא כְּפָשׁוּט שָׁקִיל, וְאַמַּאי? לֵיזִיל לְגַבֵּי הַאי – וְלִידְחֵייהּ, וְלִגְבֵּי הַאי – וְלִידְחֵייהּ!

The Gemara infers: This son **is not a firstborn with regard to inheritance, but he takes** a share of the inheritance **like an ordinary** son. **But why** is he entitled to any inheritance? **Let him go to that** son of the first husband **and he will reject him,** by demanding proof that he is from his family, **and** likewise let him go **to that** son of the second husband **and he will reject him** in the same manner.

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אָמַר רַבִּי יִרְמְיָה: לָא נִצְרְכָא אֶלָּא לַבָּא אַחֲרָיו; וְהָכִי קָאָמַר: בְּכוֹר לַכֹּהֵן, וְהַבָּא אַחֲרָיו – אֵין בְּכוֹר לְנַחֲלָה.

Rabbi Yirmeya says: This ruling that he is not a firstborn with regard to inheritance **is necessary only with regard to the** son who **follows him,** born to the second husband, to teach that he is not a firstborn with regard to inheritance, as this son of uncertain status might be his firstborn brother. **And** when the mishna states: The child is a firstborn with regard to redemption from a priest but is not a firstborn with regard to inheritance, **this** is what it **is saying:** This son of uncertain status is **a firstborn with regard to** redemption from **a priest, and the** son **who follows him,** born to the second husband, **is not a firstborn with regard to inheritance.**

וְלִכְתְּבוּ הַרְשָׁאָה לַהֲדָדֵי! וְכִי תֵּימָא, מַתְנִיתִין שֶׁלֹּא בְּהַרְשָׁאָה – הָא מוֹקְמִינַן לָהּ קַמָּן דִּבְהַרְשָׁאָה!

The Gemara suggests: **And let** the son with uncertain status and the son who follows him **write an authorization to one another,** by which each grants the other the right to claim his own share. In this manner they can claim the double portion together, as one of them is certainly the firstborn. **And if you would say** that **the mishna** is dealing with a case **where** there was **no authorization, we interpret it later on** (see 49a) as referring **to** a situation **where** there was **an authorization.**

מְסַיַּיע לֵיהּ לְרַבִּי יַנַּאי, דְּאָמַר רַבִּי יַנַּאי: הוּכְּרוּ וּלְבַסּוֹף נִתְעָרְבוּ – כּוֹתְבִין הַרְשָׁאָה זֶה לָזֶה,

The Gemara answers: The mishna, which indicates that there is no firstborn with regard to inheritance here, **supports** the opinion **of Rabbi Yannai, as Rabbi Yannai says:** In a case where two sons of two men became confused and it is unknown who is the father of whom, if the two sons **were** initially **recognized and were ultimately intermingled,**[H] **each writes an authorization to the other,** and the other sons in each family cannot claim that these sons are not their brother.

לֹא הוּכְּרוּ וּבַסּוֹף נִתְעָרְבוּ – אֵין כּוֹתְבִין הַרְשָׁאָה זֶה לָזֶה.

If **they were not** initially **recognized and were ultimately intermingled, each does not write an authorization to the other,** as even initially neither of them had any certain right to their father's inheritance. Likewise, in the case of the uncertain son and the one who follows him in the mishna, neither one was ever recognized as his father's firstborn. Therefore, writing an authorization is ineffective in claiming any inheritance.

מתני׳ אֵי זֶהוּ בְּכוֹר לְנַחֲלָה וְלַכֹּהֵן? הַמַּפֶּלֶת שָׁפִיר מָלֵא מַיִם, מָלֵא דָּם, מָלֵא גְּנִינִין, הַמַּפֶּלֶת כִּמִּין דָּגִים וַחֲגָבִים שְׁקָצִים וּרְמָשִׁים, וְהַמַּפֶּלֶת לְיוֹם אַרְבָּעִים – הַבָּא אַחֲרֵיהֶם בְּכוֹר לְנַחֲלָה וְלַכֹּהֵן.

MISHNA **Which is** the offspring **that is a firstborn** both **with regard to inheritance and with regard to** redemption from **a priest?** In the case of a woman **who miscarried a gestational sac full of water,**[H] or one **full of blood,** or one **full of pieces of flesh;**[N] or one **who miscarries** a mass **resembling a fish, or grasshoppers,** or **repugnant creatures, or creeping animals, or** one **who miscarries on the fortieth day** after conception, **the** son **who follows** any of **them is a firstborn with regard to inheritance and with regard to** redemption from **a priest.**

יוֹצֵא דּוֹפָן וְהַבָּא אַחֲרָיו – שְׁנֵיהֶן אֵינָן בְּכוֹר, לֹא לְנַחֲלָה וְלֹא לַכֹּהֵן. רַבִּי שִׁמְעוֹן אוֹמֵר: הָרִאשׁוֹן – לְנַחֲלָה, וְהַשֵּׁנִי – לְחָמֵשׁ סְלָעִים.

In the case of a boy **born by caesarean section and the** son **who follows him,**[HB] **both of them are not firstborn, neither with regard to inheritance nor with regard to** redemption from **a priest. Rabbi Shimon says: The first** son is a firstborn **with regard to inheritance** if he is his father's first son, **and the second** son is a firstborn with regard to redemption from a priest **for five *sela*** coins, because he is the first to emerge from the womb and he emerged in the usual way.

גמ׳ רִאשׁוֹן לְנַחֲלָה לָא – ״וְיָלְדוּ לוֹ״ בָּעֵינַן, לְחָמֵשׁ סְלָעִים נַמִּי לָא – ״פֶּטֶר רֶחֶם״ בָּעֵינַן.

GEMARA The mishna teaches that neither a son born by caesarean section nor the son who follows him are firstborn, neither with regard to inheritance nor with regard to redemption from a priest. The Gemara explains: The **first** son, born by caesarean section, is **not** considered the firstborn **with regard to inheritance,** as **we require** fulfillment of the verse: "**And they have borne him** children" (Deuteronomy 21:15), written in the context of inheritance, and a caesarean section is not called a birth. Likewise, **with regard to** the redemption with **five *sela*** coins, this son is **also not** considered the firstborn, as **we require** fulfillment of the verse: "Whatever **opens the womb**" (Exodus 13:2), and he did not open his mother's womb.

HALAKHA

The sons were initially recognized and were ultimately intermingled – הוּכְּרוּ וּלְבַסּוֹף נִתְעָרְבוּ: If it is unclear whether a specific son is the firstborn, e.g., two wives of one husband gave birth concurrently and it is unknown who gave birth first, the son does not receive a double portion of the inheritance. In a case where one of the sons was recognized as the firstborn at the time of his birth, and only afterward the two sons were intermingled, the true firstborn has the right to a double portion. Therefore, each of them writes the other an authorization to collect the additional portion, and they then divide it (*Sma*). This is in accordance with Rabbi Yannai's statement (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:6; *Shulḥan Arukh*, *Ḥoshen Mishpat* 277:11).

In the case of a woman who miscarried a gestational sac full of water, etc. – הַמַּפֶּלֶת שָׁפִיר מָלֵא מַיִם וכו׳: If a woman miscarried a gestational sac full of blood, water, or pieces of flesh; or if she miscarries a mass resembling fish, or grasshoppers, or repugnant creatures, or creeping animals; or one who miscarries on or before the fortieth day after conception, the son who follows any of these is a firstborn with regard to inheritance and with regard to redemption from a priest. This *halakha* is in accordance with the opinion of the first *tanna* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:14 and *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:10; *Shulḥan Arukh*, *Yoreh De'a* 305:23 and *Ḥoshen Mishpat* 277:6).

In the case of a boy born by caesarean section and the son who follows him – יוֹצֵא דּוֹפָן וְהַבָּא אַחֲרָיו: With regard to a son born by caesarean section and the son who follows him, neither of them is the firstborn, and therefore neither of them inherits a double portion and they are both exempt from the redemption of the firstborn. This *halakha* is in accordance with the opinion of the first *tanna* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:16 and *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:11; *Shulḥan Arukh*, *Yoreh De'a* 305:24 and *Ḥoshen Mishpat* 277:7).

NOTES

Pieces of flesh [*geninin*] – גְּנִינִין: Rashi explains this word to mean: Various hues [*gevanim*], i.e., the miscarriage contained pieces that were the color of blood, the color of flesh, and the color of bones (*Tiferet Yisrael*). In the Rambam's Commentary on the Mishna (*Karetot* 1:5) it is explained that *geninin* means thin, worm-like pieces of flesh.

BACKGROUND

Boy born by caesarean section and the son who follows him – יוֹצֵא דּוֹפָן וְהַבָּא אַחֲרָיו: There is no medical record of such an operation being performed in the ancient world on a live woman, but only on women who died during childbirth, in order to save the offspring. Only in the modern era has this operation been performed on live women. Nevertheless, various *mishnayot* and discussions in the Talmud indicate that among Jews these operations might have been performed on living women in ancient times, and that women who were operated on not only survived, but even managed to become pregnant and have children again.

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שֵׁנִי לְנַחֲלָה לָא – ״רֵאשִׁית אוֹנוֹ״ בָּעֵינַן, לְחָמֵשׁ סְלָעִים נַמִּי לָא – קָסָבַר: בְּכוֹר לְדָבָר אֶחָד לָא הֲוֵי בְּכוֹר.

Similarly, the **second** son who follows him is **not** considered the firstborn **with regard to inheritance,** as **we require** fulfillment of the verse: "For he is **the first of his strength,** the right of the firstborn is his" (Deuteronomy 21:17), and this son is not the first. In addition, he is **also not** considered the firstborn **with regard to** the redemption of **five *sela*** coins, as the *tanna* of the mishna **holds: A firstborn for** only **one matter,** i.e., he opened his mother's womb but is not her first child, **is not considered a firstborn** with regard to redemption.

״רַבִּי שִׁמְעוֹן אוֹמֵר: הָרִאשׁוֹן – לְנַחֲלָה, וְהַשֵּׁנִי – לְחָמֵשׁ סְלָעִים״. רַבִּי שִׁמְעוֹן לְטַעֲמֵיהּ, דְּאָמַר: ״תֵּלֵד״ – לְרַבּוֹת יוֹצֵא דּוֹפֶן.

§ The mishna teaches that **Rabbi Shimon says: The first** son is a firstborn **with regard to inheritance** if he is his father's first son, **and the second** son is a firstborn with regard to redemption from a priest **for five *sela*** coins. The Gemara explains: The verse states: "And they have borne him children," and a caesarean section is not called a birth. **Rabbi Shimon** conforms **to his** standard line of **reasoning, as he says** with regard to a verse that deals with the ritual impurity of a woman after childbirth: "But if **she bears** a girl" (Leviticus 12:5), that the apparently superfluous term "she bears" serves **to include** a child **born by caesarean section,** and the same applies with regard to a firstborn for inheritance.

וְהַשֵּׁנִי לְחָמֵשׁ סְלָעִים – קָסָבַר: בְּכוֹר לְדָבָר אֶחָד הֲוֵי בְּכוֹר.

And Rabbi Shimon also rules that **the second** son is a firstborn with regard to redemption from a priest **for five *sela*** coins, as he **maintains: A firstborn for** only **one matter,** i.e., one who opened his mother's womb but is not her first child, **is** considered **a firstborn** with regard to the redemption of the firstborn, despite the fact that he is not his mother's first child.

Perek **VIII**
Daf **48** Amud **a**

מתני׳ מִי שֶׁלֹּא בִּכְּרָה אִשְׁתּוֹ, וְיָלְדָה שְׁנֵי זְכָרִים – נוֹתֵן חָמֵשׁ סְלָעִים לַכֹּהֵן, מֵת אֶחָד מֵהֶן בְּתוֹךְ שְׁלֹשִׁים יוֹם – הָאָב פָּטוּר.

MISHNA With regard to **one whose wife had not** previously **given birth and** then **gave birth** to **two males,**[H] i.e., twin males, and it is unknown which is the firstborn, **he gives five *sela*** coins **to the priest** after thirty days have passed. If **one of them dies**[H] **within thirty days** of birth, before the obligation to redeem the firstborn takes effect, **the father is exempt**[N] from the payment due to uncertainty, as perhaps it was the firstborn who died.

HALAKHA

One whose wife had not previously given birth and then gave birth to two males – מִי שֶׁלֹּא בִּכְּרָה אִשְׁתּוֹ וְיָלְדָה שְׁנֵי זְכָרִים: If a man's wife had not previously given birth and she gave birth to twin males, even if it is unknown which is the firstborn, the father must give five *sela* coins to a priest, as he is obligated in the redemption of whichever one is actually the firstborn (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:20; *Shulḥan Arukh*, *Yoreh De'a* 305:25 and *Shakh* there).

If one of them dies – מֵת אֶחָד מֵהֶן: If a woman gave birth for the first time to twin males and one of them died within thirty days of their birth, the father is exempt from redeeming the second, as the one who died might have been the firstborn and the burden of proof rests on the claimant. If he died after thirty days, the father is obligated to pay the redemption money (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:20; *Shulḥan Arukh*, *Yoreh De'a* 305:25 and *Shakh* there).

NOTES

If one of them dies within thirty days the father is exempt – מֵת אֶחָד מֵהֶן בְּתוֹךְ שְׁלֹשִׁים יוֹם הָאָב פָּטוּר: The reason is that with regard to any uncertainty involving cases of monetary law the burden of proof rests on the claimant, and it cannot be proven that the living child is the firstborn (Rashi). The later commentaries raise a difficulty: In the case of the redemption of the firstborn, in addition to the monetary obligation, an obligation to perform the mitzva also exists, and the principle is to rule stringently with regard to any uncertainty involving a mitzva that applies by Torah law. They answer that the mitzva is to give a priest five *sela* coins, which means the fulfillment of the mitzva depends on the monetary obligation. When that monetary obligation does not exist the mitzva does not apply either (see *Sha'arei Yosher* 5:25).

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מֵת הָאָב וְהַבָּנִים קַיָּימִים, רַבִּי מֵאִיר אוֹמֵר: אִם נָתְנוּ עַד שֶׁלֹּא חָלְקוּ – נָתְנוּ, וְאִם לָאו – פְּטוּרִין; רַבִּי יְהוּדָה אוֹמֵר: נִתְחַיְּבוּ נְכָסִים. זָכָר וּנְקֵבָה – אֵין כָּאן לַכֹּהֵן כְּלוּם.

In a case where **the father died and the sons are alive,**[H] **Rabbi Meir says: If they gave** the five *sela* coins to the priest **before they divided** their father's property between them, **they gave** it, and it remains in the possession of the priest. **But if not,** they are **exempt** from giving the redemption money to the priest. **Rabbi Yehuda says: The obligation** to redeem the firstborn already **took effect on the property** of the father; therefore, in either case the sons, his heirs, are required to pay the priest. If the wife gave birth to **a male and a female**[H] and it is not known which was born first, **the priest has nothing here,** as it is possible that the female was born first.

גמ׳ דְּמִית הָאָב אֵימַת? אִילֵימָא דְּמִית לְאַחַר שְׁלֹשִׁים יוֹם – בְּהָא אָמַר רַבִּי מֵאִיר כִּי חָלְקוּ פְּטוּרִין? וְהָא אִשְׁתַּעְבְּדָן לְהוּ לְנִכְסֵי!

GEMARA The mishna teaches that in a case where the father died and the sons are alive, Rabbi Meir says: If they gave the five *sela* coins to the priest before they divided their father's property, they gave it; but if not, they are exempt from giving the redemption money. The Gemara asks: **When did the father die? If we say that he died after** the **thirty days** following the birth of his sons, does **Rabbi Meir say in this** case that **if they divided** their father's property they are **exempt** from giving the redemption money to the priest? **But the property is** already **on lien** for the mitzva of redemption.

אֶלָּא דְּמִית בְּתוֹךְ שְׁלֹשִׁים יוֹם, מַאי שְׁנָא כִּי חָלְקוּ – דְּאָזֵיל לַגַּבֵּי הַאי וּמַדְחֵי לֵיהּ, דְּאָזֵיל לַגַּבֵּי הַאי וּמַדְחֵי לֵיהּ; כִּי לֹא חָלְקוּ נַמִי, לֵיזֵיל לְגַבֵּי הַאי – וְלִידְחֵייהּ, וְלֵיזֵיל לְגַבֵּי הַאי – וְלִידְחֵייהּ!

Rather, it is referring to a case **where** the father **died within thirty days** of the birth of his sons,[N] and the obligation of redemption applies to the firstborn himself, whose identity is unknown, but not to the father's property. If so, **what is different** about a case **where they** already **divided** the property between them, that Rabbi Meir deems them exempt? The reason must be **that** the priest **will go to this** son, **and** the son **will reject him** by demanding that the priest prove he is the firstborn; and likewise **he will go to that** other son, **and he** too **will reject him** in the same manner. The Gemara challenges this explanation: The same should apply **even** in a case **where they did not divide** the property: **Let** the priest **go to this** son **and he will reject him, and let him go to that** son **and he** too **will reject him.**

אָמַר רַבִּי יִרְמְיָה: זֹאת אוֹמֶרֶת, שְׁנֵי יוֹסֵף בֶּן שִׁמְעוֹן שֶׁהָיוּ בְּעִיר אַחַת וְלָקְחוּ שָׂדֶה בְּשׁוּתָּפוּת – בַּעַל חוֹב גּוֹבֶה אוֹתָהּ מֵהֶם, דְּאָמַר לֵיהּ: אִי בְּדִידָךְ מַסֵּיקְנָא – מְנָתָא דִּידָךְ קָא שָׁקִילְנָא, וְאִי בְּחַבְרָךְ מַסֵּיקְנָא – מְנָתָא דְּחַבְרָךְ קָא שָׁקִילְנָא.

Rabbi Yirmeya says: That is to say, i.e., it can be inferred from here, that in a case involving **two** people named **Yosef ben Shimon**[H] **who were** residents **of one city, and they acquired a field in partnership, a creditor** of one of them **can collect** payment of his debt **from** either of **them,** despite the fact that he does not know which of them owes him the money. The reason is **that he can say to** each of them: **If I have a claim against you, I am taking the one hundred dinars** that is **your** share in the joint field, **and if I have a claim against the other** Yosef ben Shimon, **I am taking the one hundred dinars that** is his share in the field. This is similar to the case in the mishna, as the brothers who have yet to divide their father's property are considered partners, and therefore the priest can claim his debt from that property.

HALAKHA

The father died and the sons are alive – מֵת הָאָב וְהַבָּנִים קַיָּימִים: If a man's wife gave birth for the first time to twin males, and the father died before he redeemed the firstborn and both sons are alive, whether he died within or after thirty days of their birth they must give five *sela* coins from their father's property to a priest, even if they have already divided the property between them. The reason for this ruling is that according to the first version of the discussion, the Gemara distinguishes between whether they divided the property or not specifically according to the opinion of Rabbi Meir, whereas according to Rabbi Yehuda it makes no difference whether or not they divided the property, and the *halakha* is in accordance with his opinion. Some commentaries maintain that if the father died within thirty days of their birth they are exempt, even if they have not divided the property (*Tur*; Rambam's Commentary on the Mishna; *Bah*). This ruling is in accordance with the opinion of Rabbi Yehuda according to the second version of the discussion in the Gemara, as there is a principle that the *halakha* follows the last version of a statement (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:20; *Shulḥan Arukh*, *Yoreh De'a* 305:26).

A male and a female – זָכָר וּנְקֵבָה: If a man's wife gave birth for the first time to a male and a female and it is unknown which was born first, the priest has no claim, as it is possible the female was born first and the burden of proof rests on the claimant (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:20; *Shulḥan Arukh*, *Yoreh De'a* 305:25).

Two people named Yosef ben Shimon – שְׁנֵי יוֹסֵף בֶּן שִׁמְעוֹן: If there were two people with the name Yosef ben Shimon and someone lent money to one of them, and they owned a field in partnership, the lender cannot seize half the field and say: If I lent to you, then all is well; and if I lent to the other Yosef ben Shimon, since he does not have available property I have taken this field for my debt. This is because the property of a debtor is on lien only as a guarantee for the lender, and one can claim payment of a debt from a guarantor only in a situation where one can claim from the debtor himself. In this case, since the lender cannot claim from the debtor himself, he cannot collect the debt from his property either (*Shulḥan Arukh*, *Ḥoshen Mishpat* 49:10, and see *Netivot HaMishpat* there).

NOTES

A case where the father died within thirty days of the birth – דְּמִית בְּתוֹךְ שְׁלֹשִׁים יוֹם: Some commentaries ask with regard to this suggestion: If the mishna is referring to such a case, this apparently presents a difficulty to the opinion of Rabbi Yehuda as well: How can Rabbi Yehuda maintain that the obligation to redeem the firstborn already took effect on the property of the father, when the father was not yet obligated to perform the mitzva? The Rambam may be responding to this difficulty when he rules that even in this case the obligation has already taken effect on the property, and the commentaries state that he rules in accordance with the opinion of Rabbi Yehuda (*Kesef Mishne*). The reason is that the mitzva of redemption applies as soon as the son is born, but the Torah commanded one to wait thirty days in case the child is not viable. If so, when thirty days have passed it is retroactively established that the obligation was in effect from the outset (Maharit Algazi 69, citing Rashi on 49a; and see *Tosafot*).

The later commentaries suggest that although the obligation of redemption applies only after thirty days, nevertheless the lien on the property takes effect from the outset (see *Oneg Yom Tov*, *Yoreh De'a* 100). Others contend that the mitzva to redeem the firstborn, which applies first to the father and then to the son, entails a lien on the father's property even after his death (*Avnei Nezer*, *Yoreh De'a* 168).

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אֲמַר רָבָא: מִכְּדֵי, נִכְסֵי דְּבַר אִינִישׁ אִינּוּן עֲרֵבִין בֵּיהּ, מִי אִיכָּא מִידֵּי דְּלְדִידֵיהּ לָא מָצֵי תָּבַע לֵיהּ, וּלְעֵרֵב מָצֵי תָּבַע לֵיהּ? וְהָתְנַן: הַמַּלְוֶה אֶת חֲבֵירוֹ עַל יְדֵי עֲרֵב – לֹא יִפָּרַע מִן הָעֲרֵב; וְקָיְימָא לָן: דְּלָא יִתְבַּע מִן הָעֲרֵב תְּחִלָּה!

Rava said in response: **Now** consider the principle that **a person's property is a guarantee for him,** i.e., it serves as a guarantee for the loan if the debtor does not repay it. **Is there any** case **where one cannot claim** repayment from the debtor **himself, and** yet **he can claim from a guarantor? But didn't we learn** in a mishna (*Bava Batra* 173a): In the case of **one who lends** money **to another with** the assurance of **a guarantor,**[H] he **cannot claim** payment of the debt **from the guarantor? And we maintain** in this regard **that** he **cannot claim** payment of the debt **from the guarantor at the outset,** before first claiming the debt from the debtor. How, then, may the priest not claim the redemption money from either brother, and yet he can take it from their property?

אֶלָּא אָמַר רָבָא: לְעוֹלָם שֶׁמֵּת לְאַחַר שְׁלֹשִׁים יוֹם. וְאִי דְּאִיכָּא נִכְסֵי טוּבָא – הָכִי נַמִּי דְּשָׁקֵיל, וְהָכָא בְּמַאי עָסְקִינַן – כְּגוֹן דְּלֵיכָּא אֶלָּא חֲמֵשׁ סְלָעִים.

Rather, Rava says: Actually, the mishna is referring to a case **where** the father **died after thirty days** following the birth of his sons and the property is already on lien for the mitzva of redemption. **And if** this is a case **where there is a lot of property, so too,** the *halakha* is **that** the priest **takes** the five *sela* coins from that property, even after the sons have divided it, as they are obligated to pay their father's debt from their inheritance. **And what are we dealing with here?** With a case **where there is only** the **five *sela*** coins received from their father. That was the entire estate.

וּדְכוּלֵי עָלְמָא אִית לְהוּ דְּרַב אַסִי, דְּאָמַר רַב אַסִי: הָאַחִין שֶׁחָלְקוּ – מֻחְזָקָה יוֹרְשִׁין וּמֻחְזָקָה לָקוֹחוֹת, וּדְכוּלֵי עָלְמָא: מִלְוֶה הַכְּתוּבָה בַּתּוֹרָה

Rava continues: **And everyone accepts** the opinion **of Rav Asi,**[N] **as Rav Asi says:** In the case of **brothers who divided** property they received as an inheritance, with regard to **half** of it they are considered **heirs and** with regard to the other **half** they are considered **purchasers** from each other. **And** furthermore, **everyone** agrees that **a loan written in the Torah,**[H] i.e., a financial obligation by Torah law, such as the redemption of the firstborn,

HALAKHA

One who lends money to another with the assurance of a guarantor – הַמַּלְוֶה אֶת חֲבֵירוֹ עַל יְדֵי עֲרֵב: If one lends money to another with the assurance of a guarantor, although the guarantor is bound to honor his commitment, the creditor cannot collect from the guarantor before attempting to do so from the debtor. Even if the debtor's land, from which the loan will be collected, is of inferior quality, the creditor must settle for this rather than turn to the guarantor for collection. Furthermore, even if the debtor has no real estate, the creditor must first attempt to collect the debt from movable property owned by the debtor rather than collect the debt from the guarantor (Rambam *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 25:3; *Shulḥan Arukh*, *Ḥoshen Mishpat* 129:8).

A loan written in the Torah – מִלְוֶה הַכְּתוּבָה בַּתּוֹרָה: If a father does not have unsold property with which to redeem his son, the priest cannot collect from liened property, even if the obligation of redemption came before the creditor's debt. The *halakha* is in accordance with the opinion of the Rabbis that a loan written in the Torah is not like one written in a document (*Shulḥan Arukh*, *Yoreh De'a* 305:16, and see *Shakh*, *Taz*, and *Beur HaGra* there).

NOTES

And everyone accepts the opinion of Rav Asi – וּדְכוּלֵי עָלְמָא אִית לְהוּ דְּרַב אַסִי: The opinion of Rav Asi is a middle opinion within a dispute of *amora'im* with regard to the status of brothers vis-à-vis their father's property after the division of the inheritance: Some say they are considered inheritors, i.e., each received the portion to which he was entitled, and others hold they are considered purchasers, as though each acquired the share of the other in the portion they received in practice (see 52b).

Perek **VIII**
Daf **48** Amud **b**

לָאו כִּכְתוּבָה בִּשְׁטָר דָּמְיָא: וּדְכוּלֵי עָלְמָא אִית לְהוּ דְּרַב פַּפָּא, דְּאָמַר רַב פַּפָּא: מִלְוֶה עַל פֶּה – גּוֹבֶה מִן הַיּוֹרְשִׁין, וְאֵינוֹ גּוֹבֶה מִן הַלָּקוֹחוֹת.

is not like one **written in a document,** but like an oral loan. **And everyone accepts** the opinion **of Rav Pappa, as Rav Pappa says:** When a creditor gives **a loan by oral** agreement, he can **collect** the debt **from the heirs**[H] of the debtor after his death **but he cannot collect** the debt **from the purchasers** of the debtor's property. Consequently, the priest can collect the redemption money only from the half of the property with regard to which the sons are considered heirs, and since the entire property is worth only five *sela* coins he would be able to take only two and a half *sela* coins.

HALAKHA

When a creditor gives a loan by oral agreement he can collect the debt from the heirs – מִלְוֶה עַל פֶּה גּוֹבֶה מִן הַיּוֹרְשִׁין: A loan given by oral agreement can be collected from heirs but cannot be collected from purchasers of the property of the debtor, as there is no public awareness of a loan by oral agreement. This *halakha* is in accordance with the opinion of Rav Pappa (Rambam *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 11:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 107:1, 108:1).

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וְהָכָא בְּחָמֵשׁ וְלֹא בַּחֲצִי חָמֵשׁ קָמִיפַּלְגִי, דְּרַבִּי מֵאִיר סָבַר: חָמֵשׁ וְלֹא חֲצִי חָמֵשׁ, וְרַבִּי יְהוּדָה סָבַר: חָמֵשׁ וַאֲפִילּוּ חֲצִי חָמֵשׁ.

And here Rabbi Meir and Rabbi Yehuda **disagree** with regard to the issue **of: Five, but not with half of five. As Rabbi Meir holds** that the Torah requires giving specifically **five** *sela* coins, **but not half** or part **of five;** therefore, the brothers are exempt from giving a priest those two and a half *sela* coins. **And Rabbi Yehuda maintains** that the Torah requires giving **five** *sela* coins, **and even half** or part **of five.** Therefore, he rules that the priest takes those two and a half *sela* coins from the property with regard to which the sons are considered heirs.

אִי הָכִי, רַבִּי יְהוּדָה אוֹמֵר נִתְחַיְּבוּ נְכָסִים, נִתְחַיֵּיב גַּבְרָא מִיבָּעֵי לֵיהּ! וְעוֹד תַּנְיָא, רַבִּי יְהוּדָה אוֹמֵר: הָאַחִין שֶׁחָלְקוּ, אִם יֵשׁ עֲשָׂרָה זוּז לָזֶה וַעֲשָׂרָה זוּז לָזֶה – חַיָּבִין, וְאִם לָאו – פְּטוּרִין;

The Gemara asks: **If so,** when **Rabbi Yehuda says: The obligation** to redeem the firstborn already **took effect** on **the property** of the father, **he should** have said that **the obligation** to redeem the firstborn **took effect** on **the man,** i.e., the brothers who are obligated to pay the sum, as Rabbi Yehuda agrees that the priest forfeits the half of the obligation that applies to the property. **And furthermore, it is taught** in a *baraita* that **Rabbi Yehuda says:** In a case **where** the identity of the firstborn is unknown, and **the brothers divided** their father's property, **if there are ten dinars,** which equals two and a half *sela* coins, **for this** brother, **and ten dinars for that** brother, **they are obligated** to pay the priest; **and if not, they are exempt.**

מַאי ״עֲשָׂרָה זוּז לָזֶה וַעֲשָׂרָה זוּז לָזֶה״? אִילֵימָא בֵּין דִּירוּשָׁה בֵּין דְּלָקוֹחוֹת, וְחָמֵשׁ וַאֲפִילּוּ חֲצִי חָמֵשׁ, אִי הָכִי – מַאי אִירְיָא עֲשָׂרָה? אֲפִילּוּ בְּצִיר מֵעֲשָׂרָה נַמִי!

The Gemara clarifies the difficulty by analyzing the *baraita*: **What** is the meaning of the clause: **Ten dinars for this** brother **and ten dinars for that** brother? **If we say** each has ten dinars from the father's property, which is the total sum of **both** the half **of the inheritance** and the half **with regard to** which they are **purchasers** together, which equals two and a half *sela* coins, **and** Rabbi Yehuda says they are obligated to pay the priest because he maintains that there is a mitzva to give **five** *sela* coins **and even half** or part **of five,** this is difficult. **If so, why specifically** state that they are obligated only when there are **ten** dinars? The same *halakha* would apply **even** to **fewer than ten** dinars, as the priest is entitled to whatever is available.

אֶלָּא פְּשִׁיטָא, עֲשָׂרָה זוּז דִּירוּשָׁה לָזֶה, וַעֲשָׂרָה זוּז דִּירוּשָׁה לָזֶה. אַלְמָא: חָמֵשׁ וְלֹא חֲצִי חָמֵשׁ סְבִירָא לֵיהּ!

Rather, it is **obvious** that in this case there are **ten dinars of inheritance for this** brother **and ten dinars of inheritance for that** brother, which totals five *sela* coins. According to Rabbi Yehuda, it is only in this case that they are obligated to pay the priest. **Evidently,** Rabbi Yehuda **maintains** that there is a mitzva to give specifically **five** *sela* coins, **but not half** or part **of five,** which contradicts the suggested explanation of the dispute.

אֶלָּא, דְּכוּלֵי עָלְמָא חָמֵשׁ וְלֹא חֲצִי חָמֵשׁ, וְהָכָא בִּדְרַב אַסִי וְרַב פַּפָּא קָמִיפַּלְגִי.

Rather, the mishna is referring to a case where the father's property is worth five *sela* coins, and **everyone,** both Rabbi Meir and Rabbi Yehuda, agree that the Torah requires giving **five** *sela* coins, **but not half of five. And here they disagree with regard to** the statements **of Rav Asi and Rav Pappa** that the portion of the inheritance includes only two and a half *sela*, which the priest is not entitled to collect. Rabbi Meir holds in accordance with their opinion, while Rabbi Yehuda disagrees and holds that all five *sela* coins are available for the redemption.

וְאִיבָּא דְּמַתְנִי לֵיהּ אַסֵּיפָא: נִתְחַיְּבוּ הַנְּכָסִים. דְּמִית הָאָב אֵימַת? אִילֵימָא דְּמִית לְאַחַר שְׁלֹשִׁים – מִכְּלָל דְּרַבִּי מֵאִיר סָבַר כִּי חָלְקוּ פְּטוּרִין? הָא אִישְׁתַּעְבּוּדֵי לְהוּ נְכָסֵי!

§ The Gemara notes: **And there are** those **who teach** this discussion **with regard to the latter clause** of the mishna: If one had two sons and it is unknown which is the firstborn, and the father died, Rabbi Yehuda says the **obligation** to redeem the firstborn already **took effect on the property** of the father. Therefore, even if the father's property has been divided, the sons are required to pay the priest. The Gemara asks: **When did the father die? If we say that he died after thirty** days following the birth of his sons, should one conclude **by inference that Rabbi Meir maintains** that **if they divided** their father's property they are **exempt** from giving the redemption payment to the priest? **But the property is** already **on lien** for the mitzva of redemption.

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אֶלָּא בְּתוֹךְ שְׁלֹשִׁים; כִּי חָלְקוּ אַמַּאי מָחַייֵב רַבִּי יְהוּדָה? לֵיזִיל לְגַבֵּי הַאי – לִידְחֵייֵה, וְגַבֵּי הַאי – וְלִידְחֵייֵה!

Rather, it is referring to a case **where** the father **died within thirty** days of the birth of his sons and the obligation of redemption applies to the firstborn himself, though it is unknown which is the firstborn. If so, **why does Rabbi Yehuda obligate** them even **when** the brothers had already **divided** their father's property between them? **Let** the priest **go to this** son, and **he will reject him,** by claiming that he is not the firstborn, **and** let him go **to that** son **and he** too **will reject him** on the same grounds.

אָמַר רַבִּי יִרְמְיָה: זֹאת אוֹמֶרֶת, שְׁנֵי יוֹסֵף בֶּן שִׁמְעוֹן שֶׁהָיוּ בְּעִיר אַחַת, וְלָקַח אֶחָד מֵהֶם שָׂדֶה מֵחֲבֵירוֹ – בַּעַל חוֹב גּוֹבֶה מִמֶּנּוּ, דְּאָמַר לֵיהּ: אִי בְּדִידָךְ מַסֵּיקְנָא – מָנָתָא דִּידָךְ קָא שָׁקֵילְנָא, וְאִי בְּחַבְרָךְ מַסֵּיקְנָא – מִשְׁתַּעְבְּדָא לִי מִקַּמֵּי דִּידָךְ.

Rabbi Yirmeya says: That is to say: In a case involving **two** people named **Yosef ben Shimon,**[H] **who were** residents **of one city, and one of them purchased a field from the other,** an earlier **creditor can collect** payment of his debt **from** that field. This is **because he can say** to the buyer: **If you are indebted to me I am taking the one hundred dinars** that is **your** share in the field, **and if the other** Yosef ben Shimon is **indebted to me,** then this field **was on lien to me before you** acquired it.

אָמַר רָבָא: מִכְּדִי נִכְסוֹהִי דְּבַר אִינִישׁ אִינּוּן עָרְבִין בֵּיהּ, וְכוּלָּהּ כְּלִישָׁנָא קַמָּא.

Rava said: Now consider, **a person's property is a guarantee for him,** so why can the creditor not claim his debt from the debtor himself but can claim it from the guarantor, i.e., his property? The Gemara comments: **And** from here onward, **all** the rest of the discussion is the same **as** in **the first version** of the passage, as cited earlier.

מתני׳ שְׁתֵּי נָשִׁים שֶׁלֹּא בִּכְּרוּ, וְיָלְדוּ שְׁנֵי זְכָרִים – נוֹתֵן עֲשָׂרָה סְלָעִים לַכֹּהֵן. מֵת אֶחָד מֵהֶן בְּתוֹךְ שְׁלֹשִׁים יוֹם, אִם לְכֹהֵן אֶחָד נָתַן – יַחֲזִיר לוֹ חֲמֵשׁ סְלָעִים, וְאִם לִשְׁנֵי כֹּהֲנִים נָתַן – אֵינוֹ יָכוֹל לְהוֹצִיא מִיָּדָם.

MISHNA With regard to **two wives** of one man, both of **whom had not** previously **given birth, and they gave birth** to **two males,** i.e., each bore one male, and the sons were intermingled, the father **gives ten *sela*** coins **to the priest**[H] even if it is unknown which son was born first, because it is certain that each is firstborn of his mother. In a case where **one of them dies within thirty days** of birth, **if he gave** all ten *sela* coins **to one priest,** the priest **must return five *sela* to him,** because the father was not obligated to redeem the son who then died. **And if he gave** the redemption payment **to two** different **priests, he cannot reclaim** the money **from the possession** of either priest, as each could claim that the money that he received was for the living child.

זָכָר וּנְקֵבָה, אוֹ שְׁנֵי זְכָרִים וּנְקֵבָה – נוֹתֵן חֲמֵשׁ סְלָעִים לַכֹּהֵן. שְׁתֵּי נְקֵבוֹת וְזָכָר, אוֹ שְׁנֵי זְכָרִים וּשְׁתֵּי נְקֵבוֹת – אֵין כָּאן לַכֹּהֵן כְּלוּם.

If one mother gave birth to **a male and** one gave birth to **a female,** or if between them they gave birth to **two males and** one **female,** and the children were intermingled, the father **gives five *sela*** coins **to the priest:** In the first case because the male might have preceded the female and in the second case because one of the males is certainly firstborn. If the children were **two females and a male, or two males and two females, the priest has nothing here,** as it is possible the female was born first to each mother.

HALAKHA

Two people named Yosef ben Shimon – שְׁנֵי יוֹסֵף בֶּן שִׁמְעוֹן: If there were two individuals with an identical name and someone lent money to one of them, and one of them had bought a field from the other, the lender cannot seize the field by saying: If I lent to you then all is well; if I lent to the other individual of the same name then I have taken this field for my debt, because the borrower does not have unsold property with which to pay me. The reason is that the property of a debtor is on lien merely as a guarantee for him, and one can claim payment of a debt from a guarantor only in a situation where one could claim from the debtor himself. In this case, as he cannot collect from the debtor, he cannot collect the debt from his sold property either, as stated by Rava (*Shulḥan Arukh*, *Ḥoshen Mishpat* 49:10).

The father gives ten *sela* coins to the priest – נוֹתֵן עֲשָׂרָה סְלָעִים לַכֹּהֵן: If two wives of one man each gave birth for the first time to a male, the father gives ten *sela* to the priest for the redemption of both. In a case where one of them died within thirty days of birth, if he gave all ten *sela* coins to one priest, the priest must return five *sela* to him; if he gave the redemption payment to two priests, and he did not specify for which son he was giving the money, he cannot reclaim the money from the possession of either priest.

If the wives gave birth to a male and a female, or two males and a female, the father gives five *sela* coins to the priest. If one of the males died within thirty days of birth the priest is not entitled to receive anything, as the father can claim that the firstborn died and the burden of proof rests on the claimant. If they were two females and a male, or two males and two females, and it is unknown which was born first, the priest is not entitled to receive anything, as the father can claim that the female was born first to each mother and he is not obligated in redemption at all (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:21–23; *Shulḥan Arukh*, *Yoreh De'a* 305:27).

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אַחַת בִּכְרָה וְאַחַת שֶׁלֹּא בִּכְרָה, וְיָלְדוּ שְׁנֵי זְכָרִים – נוֹתֵן חֲמֵשׁ סְלָעִים לַכֹּהֵן. מֵת אֶחָד מֵהֶן בְּתוֹךְ שְׁלֹשִׁים יוֹם – הָאָב פָּטוּר.

If **one** of his wives **had** previously **given birth and one had not** previously **given birth**[H] **and** they **gave birth** to **two males** who became intermingled, the father **gives five *sela*** coins **to the priest,** as it is certain that one of them was born to the mother who had not yet given birth. If **one of them dies within thirty days** of birth **the father is exempt** from that payment, as it is possible that the one who died was born to the mother who had not yet given birth.

מֵת הָאָב וְהַבָּנִים קַיָּמִים, רַבִּי מֵאִיר אוֹמֵר: אִם נָתְנוּ עַד שֶׁלֹּא חָלְקוּ – נָתְנוּ, וְאִם לָאו – פְּטוּרִין. רַבִּי יְהוּדָה אוֹמֵר: נִתְחַיְּבוּ נְכָסִים. זָכָר וּנְקֵבָה – אֵין לַכֹּהֵן כְּלוּם.

In a case of intermingling where **the father died and the sons are alive, Rabbi Meir says: If they gave** the five *sela* coins to the priest **before they divided** their father's property between them, **they gave** it, and it remains in the possession of the priest. **But if not,** they are **exempt** from giving the redemption payment to the priest. **Rabbi Yehuda says:** The **obligation** to redeem the firstborn already **took effect** on **the property** of the father. If the wives gave birth to **a male and a female**[H] **the priest has nothing here,** as perhaps the female was born to the mother who had not yet given birth.

שְׁתֵּי נָשִׁים שֶׁל שְׁנֵי אֲנָשִׁים שֶׁלֹּא בִּכְּרוּ, וְיָלְדוּ שְׁנֵי זְכָרִים – זֶה נוֹתֵן חֲמֵשׁ סְלָעִים לַכֹּהֵן וְזֶה נוֹתֵן חֲמֵשׁ סְלָעִים. מֵת אֶחָד מֵהֶם בְּתוֹךְ שְׁלֹשִׁים, אִם לְכֹהֵן אֶחָד נָתְנוּ – יַחֲזִיר לָהֶם חֲמֵשׁ סְלָעִים, אִם לִשְׁנֵי כֹּהֲנִים נָתְנוּ – אֵינָן יְכוֹלִין לְהוֹצִיא מִיָּדָם.

With regard to **two women who had not** previously **given birth,** who were married **to two** different **men,**[H] **and they gave birth** to **two males** and the sons were intermingled, **this** father **gives five *sela*** coins **to a priest and that** father **gives five *sela*** coins to a priest, as each is certainly firstborn to his mother. In a case where **one of them dies within thirty** days of birth, **if** the fathers **gave** all ten *sela* coins **to one priest,** the priest **must return five *sela*** coins **to them. But if they gave** the redemption payment **to two** different **priests they cannot reclaim** the money **from the possession of** either priest, as each could claim that the money that he received was for the living child.

זָכָר וּנְקֵבָה – הָאָבוֹת פְּטוּרִין, וְהַבֵּן חַיָּיב לִפְדּוֹת אֶת עַצְמוֹ. שְׁתֵּי נְקֵבוֹת וְזָכָר, אוֹ שְׁתֵּי נְקֵבוֹת וּשְׁנֵי זְכָרִים – אֵין כָּאן לַכֹּהֵן כְּלוּם.

If the women gave birth to **a male and a female** and the children became intermingled, **the fathers are exempt,** as each could claim that he is the father of the female, **but the son is obligated to redeem himself,** as he is certainly a firstborn. If **two females and a male** were born, **or two females and two males, the priest has nothing here,** as it is possible the female was born first to each mother.

אַחַת בִּכְרָה וְאַחַת שֶׁלֹּא בִּכְרָה שֶׁל שְׁנֵי אֲנָשִׁים, וְיָלְדוּ שְׁנֵי זְכָרִים – זֶה שֶׁלֹּא בִּכְרָה אִשְׁתּוֹ נוֹתֵן חֲמֵשׁ סְלָעִים לַכֹּהֵן, זָכָר וּנְקֵבָה – אֵין כָּאן לַכֹּהֵן כְּלוּם.

If **one** woman **had** previously **given birth**[H] **and one had not** previously **given birth,** and they were married **to two men and they gave birth to two males,** who then became intermingled, **this** one **whose wife had not** previously **given birth gives five *sela*** coins **to the priest.** If the women gave birth to **a male and a female the priest has nothing here,** as it is possible the female was born to the mother who had not yet given birth.

HALAKHA

If one of his wives had previously given birth and one had not previously given birth – אַחַת בִּכְרָה וְאַחַת שֶׁלֹּא בִּכְרָה: If a man had two wives, one of whom had previously given birth and the other had not previously given birth, and they gave birth to two males who became intermingled, the father gives five *sela* coins to the priest. If one of them died within thirty days of birth the priest is not entitled to receive anything, as the father can claim that the firstborn died and the burden of proof rests on the claimant. If the father died after thirty days following their birth (*Beit Yosef*), the sons give five *sela* coins to the priest from the money of their inheritance (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:24; *Shulḥan Arukh*, *Yoreh De'a* 305:28).

If one of his wives had previously given birth and one had not previously given birth…a male and a female – אַחַת בִּכְרָה וְאַחַת שֶׁלֹּא בִּכְרָה...זָכָר וּנְקֵבָה: If a man had two wives, one of whom had previously given birth and the other not, and one of them gave birth to a male and the other to a female, or two males and a female were born, and the children became intermingled and it is unknown if the woman who had not previously given birth gave birth to a firstborn male, the priest is not entitled to receive anything, as the father can say that the male was born to a woman who had previously given birth and therefore he is not a firstborn. The Ra'avad disagrees in a case of two males and a female, based on the Gemara on 49a (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:25; *Shulḥan Arukh*, *Yoreh De'a* 305:28).

Two women who had not previously given birth who were married to two men – שְׁתֵּי נָשִׁים שֶׁל שְׁנֵי אֲנָשִׁים שֶׁלֹּא בִּכְּרוּ: If two women who had not previously given birth were married to two men and each gave birth to a male and the sons became intermingled, each of the fathers gives five *sela* coins to a priest. If they both gave the five *sela* coins and one of the males died within thirty days, if each father gave the money to a different priest they cannot extract the money from them. If they gave the redemption money to the same priest, then one father may write an authorization to the other, who may go to the priest and take five *sela* coins from him, in accordance with the statement of Shmuel. If the two women gave birth to a male and a female and it was unknown who gave birth to the male and who gave birth to the female, the fathers are exempt from the mitzva of redemption but the son is obligated to redeem himself. If they gave birth to two females and a male, or two males and two females, the priest is not entitled to receive anything (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:26–28; *Shulḥan Arukh*, *Yoreh De'a* 305:29).

If one woman had previously given birth – אַחַת בִּכְרָה: If two men had one wife each, one of whom had previously given birth and one had not previously given birth, and they gave birth to two males, the one whose wife had not previously given birth gives five *sela* coins to the priest. If the women gave birth to a male and a female, the priest is not entitled to receive anything, as perhaps the female was born to the mother who had not yet given birth. See the Gemara on 49a (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:29; *Shulḥan Arukh*, *Yoreh De'a* 305:31).

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גמ׳ מַאי שְׁנָא שְׁנֵי כֹּהֲנִים, דְּאָזֵיל לְגַבֵּי הַאי וּמַדְחֵי לֵיהּ, וְאָזֵיל לְגַבֵּי הַאי וּמַדְחֵי לֵיהּ;

GEMARA The mishna teaches with regard to two wives of two husbands whose firstborns were intermingled, that if the fathers gave their redemption money to two different priests and one of the firstborns died, they cannot reclaim the money from the possession of either priest. The Gemara asks: **What is different** about a case where the fathers gave the redemption money to **two** different **priests,** and one of the firstborns subsequently died, that they cannot reclaim the money? The reason is **that** one father **will go to this** priest **and he will reject him,** by claiming that he took the redemption money for the surviving firstborn, **and** likewise **he will go to that** other priest **and he** too **will reject him** in the same manner.

כֹּהֵן אֶחָד נַמִּי, לֵיזֵיל לְגַבֵּי הַאי – וְלִידְחֵייהּ, וְלֵיזֵיל לְגַבֵּי הַאי – וְלִידְחֵייהּ! אָמַר שְׁמוּאֵל:

The same is **also** true in a case where they gave their redemption money to **one priest: This** father **will go to** the priest **and** the priest **will reject him,** by claiming that his son is still alive, **and that** father **will go to** the priest **and he will reject him** too, on the same grounds. **Shmuel says:**

Perek **VIII**
Daf **49** Amud **a**

PERSONALITIES

Sages of Neharde'a – נְהַרְדְּעֵי: The Gemara in tractate *Sanhedrin* 17b explains that this appellation is a reference to Rav Ḥama, a fourth-generation Babylonian *amora*, and it can be assumed that the same applies here. Rav Ḥama apparently lived a long life, as the Talmud records discussions he had with Sages of the previous generation as well. As he served for over twenty years as head of the yeshiva in Neharde'a, his *halakhot* are recorded in the name of the Sages of Neharde'a, without further specification.

LANGUAGE

Authorizaton document [*adrakhta*] – אַדְּרַכְתָּא: Rashi and other early commentaries had a text that read: *Orkhata*, which means a document authorizing a person to do as he pleases with regard to a matter or an item. The version of the word found here, *adrakhta*, denotes pursuit, as in the verse: "They enclosed the Benjamites round about, and chased them, and overtook them [*hidrikhuhu*]" (Judges 20:43). The primary function of this document is to authorize a creditor to locate and take possession of any property belonging to his debtor in repayment of the debt.

בְּבָא בְּהַרְשָׁאָה.

This is referring to a case **where** one of the fathers **comes with authorization** to act on behalf of the other father to state his claim for him, and therefore the priest cannot reject his claim. But if they gave the money to two different priests an authorization is of no effect, as each priest can claim the other took the redemption money of the son who died.

וְהָאָמְרִי נְהַרְדְּעֵי: לָא כָּתְבִינַן אַדְּרַכְתָּא אַמִּטַּלְטְלֵי! הָנֵי מִילֵּי – הֵיכָא דְּכַפְּרֵיהּ, אֲבָל הֵיכָא דְּלָא כַּפְּרֵיהּ – כָּתְבִינַן.

The Gemara asks: **But didn't** the Sages **of Neharde'a**[P] **say: We do not write an authorization document** [***adrakhta***][L] **concerning movable property?**[H] Therefore, in the case of redemption, where money, which has the status of movable property, is demanded from the priest, an authorization document may not be used. The Gemara answers: **This statement,** that one does not write authorization for movable property, applies only **when** the respondent, in this case the priest, already **denied**[N] the claim against him. **But** in a case where the respondent **did not** yet **deny** the claim against him **we write** authorization even for movable property. In the case of redemption, although the priest claims the one issuing the claim against him is not the father of the son who died, he does not deny that he received the money.

HALAKHA

We do not write an authorization document concerning movable property – לָא כָּתְבִינַן אַדְּרַכְתָּא אַמִּטַּלְטְלֵי: According to the Gemara, one may not write a document authorizing someone to claim a deposit that is in the possession of another who denies that it is in his possession. This is because the document appears to be false, as the one writing it says to his representative: I authorize you to take my property that is in the possession of so-and-so, after the respondent already stated that the item is not in his possession. The *ge'onim* instituted that one may write an authorization even for a loan with a promissory note, so that individuals will not get into the habit of taking money belonging to others and flee to another country. Nevertheless, no authorization may be written in the case of a loan by oral agreement, where the respondent denies the claim of the plaintiff. Others say the authorization may be written in all cases, i.e., for a deposit, for a stolen item, for a loan with a promissory note, and for a loan by oral agreement, even though the respondent denied the claim of the plaintiff. The Rema writes that this is the standard practice (Rambam *Sefer Kinyan, Hilkhot Sheluḥin VeShutafin* 3:6; *Shulḥan Arukh, Ḥoshen Mishpat* 123:1).

NOTES

This statement applies only when the respondent denied – הָנֵי מִילֵּי הֵיכָא דְּכַפְּרֵיהּ: The reason is that it appears as though the witnesses are signing a false document, as the one appointing the agent is saying: I grant you the authority to take my property that is now in the possession of so-and-so, while the respondent has already said that the item is not in his possession. In tractate *Bava Kamma* (70a), a different tradition is attributed to the Sages of Neharde'a, according to which one can never write an authorization in a case involving movable property. This is because an authorization grants permission to the one holding it to claim the property as though it belonged to him, whereas one cannot transfer ownership of movable property that is not in one's possession.

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״זָכָר וּנְקֵבָה אֵין כָּאן לַכֹּהֵן כְּלוּם״. תְּנָא רַב הוּנָא: שְׁנֵי זְכָרִים וּנְקֵבָה – אֵין כָּאן לַכֹּהֵן כְּלוּם.

§ The mishna teaches: With regard to two women who had not previously given birth who were married to two men, and gave birth to **a male and a female** who then became intermingled, the fathers are exempt from the mitzva of redemption but the son is obligated to redeem himself, as he certainly has firstborn status. If the offspring were two females and a male, or two males and two females, all of whom became intermingled, **the priest has nothing here.** Concerning this case **Rav Huna teaches:** If they gave birth to **two males and a female**[H] **the priest has nothing here,** despite the fact that one of them is definitely a firstborn, as each father can claim that his firstborn is the female. In addition, the sons are exempt as well, since each can claim that the female was his sister and born first.

וְתַנָּא דִּידַן, כֵּיוָן דְּבִשְׁנֵי אֲנָשִׁים הוּא דְּמַשְׁכַּחַתְּ לָהּ, בְּאִישׁ אֶחָד וּשְׁתֵּי נָשִׁים לָא מַשְׁכַּחַתְּ לָהּ – לָא מַתְנֵי לֵיהּ.

The Gemara asks: **And** with regard to **the *tanna* of our** mishna, why does he not state this case? The Gemara answers: **Since you find** this ruling **that** they are entirely exempt in a case **where** the women are married to **two men,** but **you do not find it** in a case **of one man and two** of his **wives,** as a firstborn was definitely born to that man and he must give five *sela* coins to a priest, the *tanna* **does not teach** the case of two women and two men either. The reason is that stylistically, the *tanna* prefers to teach the ruling: The priest has nothing here, only when the *halakha* is identical in a case of two wives of two men and a case of two wives of one man.

מתני׳ מֵת הַבֵּן בְּתוֹךְ שְׁלֹשִׁים יוֹם, אַף עַל פִּי שֶׁנָּתַן לַכֹּהֵן – יַחֲזִיר. לְאַחַר שְׁלֹשִׁים יוֹם, אַף עַל פִּי שֶׁלֹּא נָתַן – יִתֵּן. מֵת בְּיוֹם שְׁלֹשִׁים – כְּיוֹם שֶׁלְּפָנָיו. רַבִּי עֲקִיבָא אוֹמֵר: אִם נָתַן – לֹא יִטּוֹל, וְאִם לֹא נָתַן – לֹא יִתֵּן.

MISHNA If **the** firstborn **son dies**[H] **within thirty days** of birth, **although** the father **gave** five *sela* **to the priest,** the priest **must return** it. If the firstborn son dies **after thirty days** have passed, **even if** the father **did not give** five *sela* coins to the priest **he must give** it then. If the firstborn **dies on the thirtieth day,** that day's halakhic status is **like** that of the **day that preceded it,** as the obligation takes effect only after thirty days have elapsed. **Rabbi Akiva says:** If the firstborn dies on the thirtieth day it is a case of uncertainty; therefore, **if** the father already **gave** the redemption payment to the priest **he cannot take** it back, **but if he did not** yet **give** payment **he does not** need to **give** it.

גמ׳ מַאי טַעֲמַיְיהוּ דְּרַבָּנַן? גָּמְרִי ״חֹדֶשׁ״ ״חֹדֶשׁ״ מִמִּדְבָּר, מָה הָתָם – ״וָמַעְלָה״, אַף הָכָא נַמִּי – וָמַעְלָה.

GEMARA The Gemara asks: **What is the reason of the Rabbis,** i.e., the first *tanna*, who hold that the mitzva of redemption applies only after thirty days have elapsed? The Gemara explains that **they derive** the meaning of the term "**month**" stated in this context by means of a verbal analogy **from** the meaning of the term "**month**" stated in the context of the redemption of the Israelite firstborn in **the wilderness** via the Levites. **Just as there,** with regard to the redemption through the Levites, it is stated: "Number all the firstborn males of the children of Israel from a month old **and upward**" (Numbers 3:40), i.e., after thirty days, **so too here,** with regard to the mitzva of redemption for future generations, where it states: "From a month old you shall redeem" (Numbers 18:16), the requirement: **And upward,** applies **as well,** i.e., only after thirty days.

HALAKHA

Two males and a female – שְׁנֵי זְכָרִים וּנְקֵבָה: The Rambam writes: If a man had two wives, one of whom had previously given birth while the other had not, and they gave birth to two males and a female who became intermingled, the priest is not entitled to receive anything. This ruling is in accordance with the opinion of Rav Huna, who the Rambam holds is referring to the earlier clause of the mishna. In a case where these two women were married to two different men, the Rambam maintains that the one whose wife had not previously given birth must give a priest five *sela* coins, whereas according to the Ra'avad and the *Shulḥan Arukh* the priest is not entitled to receive anything, as they explain Rav Huna's statement as referring to the last clause of the mishna (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:25, 30, and *Kesef Mishne*, Radbaz, and Mahari Kurkus there; *Shulḥan Arukh*, *Yoreh De'a* 305:28, 31, and *Taz* there).

If the firstborn son dies – מֵת הַבֵּן: If a firstborn son died within thirty days of his birth, the father is not obligated in his redemption. Even if the father had already given the redemption money to a priest, the priest must return it to him. If he died after thirty days, the father is obligated to redeem him with a blessing over this redemption, but does not recite the blessing: Who has given us life…and brought us to this time (*Tosafot*). If he died on the thirtieth day, it is as though he died within thirty days, in accordance with the opinion of the first *tanna* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:17; *Shulḥan Arukh*, *Yoreh De'a* 305:12).

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וְרַבִּי עֲקִיבָא מְסַפְקָא לֵיהּ: מִדְּאִיצְטְרִיךְ לְמִכְתַּב "וְמֵעֲלָה" גַּבֵּי עֲרָכִין, וְלָא גָּמְרִי מִמִּדְּבָר – הָווּ לְהוּ שְׁנֵי כְּתוּבִים הַבָּאִים כְּאֶחָד,

And Rabbi Akiva is uncertain in this regard, as one could claim: **From** the fact **that it was necessary** for the verse **to write "and upward" with regard to** the mitzva of **valuations:** "And if it be from sixty years old and upward" (Leviticus 27:7), **and** it **is not derived from** the redemption of the Israelite firstborns in the **wilderness** that the phrase "from…years old" means "and upward," one can conclude the following: The redemption of the firstborn in the wilderness and valuations **are two verses that come as one,** i.e., to teach the same matter.

וְכָל שְׁנֵי כְּתוּבִים הַבָּאִים כְּאֶחָד אֵין מְלַמְּדִין;

And there is a principle that **any two verses that come as one do not teach**[N] their common *halakha* to other cases. If so, the *halakha* with regard to the mitzva of redeeming the firstborn for future generations would be that the thirtieth day is like the following day, which is not in accordance with the opinion of the Rabbis.

אוֹ דִלְמָא: כִּי אֵין מְלַמְּדִין – לְעַלְמָא, אֲבָל לְגוּפַיְיהוּ – מְלַמְּדִין? וּמִשּׁוּם הָכִי מְסַפְקִינַן לֵיהּ.

Or perhaps one could say: **When** do two verses that come as one **not teach** their common *halakha*? That is **with regard to general** *halakhot*, i.e., entirely different areas of *halakha*. **But with regard to themselves,** i.e., similar cases, **they do teach.** If so, one should derive permanent *halakha* of redemption of firstborns from the redemption of the firstborn in the wilderness. **And** it is **due to that** reason that Rabbi Akiva is **uncertain** concerning a firstborn on his thirtieth day.

אָמַר רַב אַשִׁי: הַכֹּל מוֹדִים לְעִנְיַן אֲבֵילוּת, יוֹם שְׁלֹשִׁים – כְּיוֹם שְׁלָפָנָיו. וְאָמַר שְׁמוּאֵל: הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּאֵבֶל.

Rav Ashi says: All concede with regard to mourning that **the thirtieth day is like the preceding day,**[H] i.e., if the son died on the thirtieth day it is considered as though he died on the day before and he has the status of a stillborn, and the rites of mourning are not observed. **And** the reason is as **Shmuel says:** The ***halakha*** is **in accordance with the statement of the** more **lenient** authority **in** matters relating to **mourning.**

מתני׳ מֵת הָאָב בְּתוֹךְ שְׁלֹשִׁים – בְּחֶזְקַת שֶׁלֹּא נִפְדָּה, עַד שֶׁיָּבִיא רְאָיָה שֶׁנִּפְדָּה; לְאַחַר שְׁלֹשִׁים יוֹם – בְּחֶזְקַת שֶׁנִּפְדָּה, עַד שֶׁיֹּאמְרוּ לוֹ שֶׁלֹּא נִפְדָּה. הוּא לְפִדּוֹת וּבְנוֹ לְפִדּוֹת – הוּא קוֹדֵם לִבְנוֹ, רַבִּי יְהוּדָה אוֹמֵר: בְּנוֹ קוֹדֵמוֹ, שֶׁמִּצְוָתוֹ – עַל אָבִיו, וּמִצְוַת בְּנוֹ – עָלָיו.

MISHNA If **the father** of the firstborn **dies**[H] **within thirty** days of birth **the presumptive status of** the son is **that he was not redeemed, until** the son **will bring proof that he was redeemed.** If the father dies **after thirty days** have passed **the presumptive status of** the son is **that he was redeemed, until** people **will tell him that he was not redeemed.** If one had both **himself to redeem and his son to redeem,**[H] **his** own redemption **takes precedence over** that of **his son. Rabbi Yehuda says:** The redemption of **his son takes precedence, as the mitzva** to redeem the father is incumbent **upon his** own **father, and the mitzva** to redeem **his son** is incumbent **upon him.**

גמ׳ אִיתְּמַר, הַפּוֹדֶה אֶת בְּנוֹ בְּתוֹךְ שְׁלֹשִׁים יוֹם, רַב אָמַר: בְּנוֹ פָּדוּי, וּשְׁמוּאֵל אָמַר: אֵין בְּנוֹ פָּדוּי. דְּכוּלֵי עָלְמָא: "מֵעֲרְכֶךָ" – אֵין בְּנוֹ פָּדוּי, לְאַחַר שְׁלֹשִׁים יוֹם וְאִיתְּנְהוּ לַמָּעוֹת – וַדַּאי בְּנוֹ פָּדוּי.

GEMARA It **was stated:** In the case of **one who redeems his** firstborn **son within thirty days**[H] of his birth by giving a priest five *sela* coins, **Rav says his son is redeemed and Shmuel says his son is not redeemed.** The Gemara explains: **Everyone** agrees that if the father said: He is redeemed **from now,** that **his son is not redeemed,** as the obligation to redeem the son is not yet in effect. Likewise, if the father says the redemption should take effect **after thirty days, and the money is** still **there,** in the possession of the priest, after thirty days, **his son is certainly redeemed,** as the money is in the priest's possession when the obligation of redemption comes into effect.

HALAKHA

The thirtieth day is like the preceding day – יוֹם שְׁלֹשִׁים כְּיוֹם שֶׁלְּפָנָיו: If a child died within thirty days of his birth, including the thirtieth day itself, one does not mourn for him, even if his hair and fingernails were completely formed. This *halakha* is in accordance with the opinion of Rav Ashi (Rambam *Sefer Shofetim*, *Hilkhot Evel* 1:6, 12:10; *Shulḥan Arukh*, *Yoreh De'a* 353:5, 374:8).

If the father dies – מֵת הָאָב: If the father of a firstborn son died within thirty days of birth the presumptive status of the son is that he was not redeemed, unless proof is brought that he was redeemed. If the father died after thirty days have passed the presumptive status of the son is that he was redeemed, unless he is informed that his father stated at the time of his death that he was not redeemed (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:19; *Shulḥan Arukh*, *Yoreh De'a* 305:14).

If one had both himself to redeem and his son to redeem – הוּא לְפִדּוֹת וּבְנוֹ לְפִדּוֹת: If a firstborn son was born to a firstborn male who was not redeemed by his father, and the father is therefore obligated to redeem both himself and his son, he should redeem himself first and then his son, in accordance with the opinion of the first *tanna* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:3; *Shulḥan Arukh*, *Yoreh De'a* 305:15).

One who redeems his firstborn son within thirty days – הַפּוֹדֶה אֶת בְּנוֹ בְּתוֹךְ שְׁלֹשִׁים יוֹם: In the case of one who redeems his son within thirty days of his birth, if he says he is redeeming him from now, his son is not redeemed, even if the coins used for the redemption are still in the priest's possession after thirty days (*Shakh*). If he tells the priest that he is giving him the money so that his son will be redeemed after thirty days, and the money is in the priest's possession after thirty days, his son is redeemed (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:18; *Shulḥan Arukh*, *Yoreh De'a* 305:13, and in the comment of Rema).

NOTES

Two verses that come as one do not teach – שְׁנֵי כְּתוּבִים הַבָּאִים כְּאֶחָד אֵין מְלַמְּדִין: This is one of the principles limiting the application of a paradigm. Ordinarily, a paradigm may be derived from a *halakha* stated with regard to one case in the Torah. But if that *halakha* appears in connection with two or more cases, these cases are considered two verses that come for the same purpose. In this situation, the governing principle is that an analogy may not be derived from two similar cases and applied to other cases, as the Torah would not have mentioned the principle twice unnecessarily. Therefore, these cases must be exceptions to the rule. Certain Sages maintain that one cannot derive an analogy only when a *halakha* appears in three places rather than in two. This opinion is referred to in the Talmud as: Three verses that come for the same purpose do not teach (see Rashi on *Kiddushin* 24a).

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כִּי פְּלִיגִי – לְאַחַר שְׁלֹשִׁים יוֹם וְנִתְעַכְּלוּ הַמָּעוֹת; רַב אָמַר: בְּנוֹ פָּדוּי – מִידֵּי דַּהֲוָה אַקִּידּוּשֵׁי אִשָּׁה, הָתָם לָאו אַף עַל גַּב דְּנִתְעַכְּלוּ הַמָּעוֹת – הָוֵי קִידּוּשֵׁי,

They disagree in a situation **where** the father says the redemption should take effect **after thirty days but the money was squandered away**[H] in the meantime. **Rav says his son is redeemed, just as is** the *halakha* **with regard to the betrothal of a woman**[H] on the condition that it takes effect after thirty days. In that case **there,** is it **not** correct that **even though the money was squandered away** during the thirty days **it is** a valid **betrothal?**

HALAKHA

When the father says it should take effect after thirty days but the money was squandered away – לְאַחַר שְׁלֹשִׁים יוֹם וְנִתְעַכְּלוּ הַמָּעוֹת: The Rambam rules that if one redeemed his son within thirty days of his birth and he said to the priest that the money is in order that the son be redeemed after thirty days, but after thirty days the money was no longer in the priest's possession, his son is nevertheless redeemed. This ruling is in accordance with the opinion of Rav, as the *halakha* follows Rav, not Shmuel, with regard to matters of ritual law. The text of the Gemara that the Rambam had apparently did not include the statement that in this case the *halakha* is in accordance with the opinion of Shmuel (*Kesef Mishne*; Mahari Kurkus; see Radbaz). Some say that if the money is not in the priest's possession after thirty days, or if the priest returned the coins to the father within thirty days, the firstborn son is not redeemed, in accordance with the standard text of the Gemara that the *halakha* is in accordance with the opinion of Shmuel. The Rema rules that it is proper to act stringently and redeem the son, once again based on the second opinion.

In a case where the father gave the money within thirty days but did not say either: He is redeemed from now, or: He is redeemed after thirty days, some maintain that if the money is still in the priest's possession then the son is redeemed, but if the money is no longer in the priest's possession he is not redeemed (Maharshal). Mahari Weil contends that in such a case it is considered as though he explicitly said: After thirty days, and therefore the son is redeemed (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:18; *Shulḥan Arukh*, *Yoreh De'a* 305:13, and in the comment of Rema, and see *Shakh* and *Taz* there).

Just as is the *halakha* with regard to the betrothal of a woman – מִידֵּי דַּהֲוָה אַקִּידּוּשֵׁי אִשָּׁה: In the case of one who says to a woman: You are hereby betrothed to me with this *peruta* after thirty days, even if the money does not remain in her possession at the end of the thirty days she is still betrothed after thirty days. This *halakha* is in accordance with the opinion of Rav and Shmuel in tractate *Kiddushin* 59a (Rambam *Sefer Nashim*, *Hilkhot Ishut* 7:10; *Shulḥan Arukh*, *Even HaEzer* 40:1).

Perek **VIII**
Daf **49** Amud **b**

הָכָא נַמִּי לָא שְׁנָא.

Here, too, the *halakha* **is no different.**

וּשְׁמוּאֵל אָמַר לָךְ: הָתָם – בְּיָדוֹ לְקַדְּשָׁהּ מֵעַכְשָׁיו, הָכָא – אֵין בְּיָדוֹ לִפְדּוֹתוֹ מֵעַכְשָׁיו. וְאַף עַל גַּב דְּקַיְימָא לָן דְּכָל הֵיכָא דִּפְלִיגִי רַב וּשְׁמוּאֵל – הִלְכְתָא כְּרַב בְּאִיסּוּרֵי וְכִשְׁמוּאֵל בְּדִינֵי, הָכָא הִלְכְתָא כְּוָותֵיהּ דִּשְׁמוּאֵל.

And Shmuel could **say to you: There,** with regard to betrothal, it is **in his power to betroth her from now,** when he gave her the coins, and therefore it is irrelevant that the money was spent. Conversely, **here,** in the case of redemption, it is **not in his power to redeem** his son **from now.** With regard to the practical *halakha* in this dispute the Gemara comments: **And even though we maintain** as a principle **that wherever Rav and Shmuel disagree the *halakha*** is **in accordance with** the opinion of **Rav in ritual matters and in accordance with** the opinion of **Shmuel in monetary matters, here the *halakha*** is **in accordance with** the opinion **of Shmuel,** who holds that if one redeems his son within thirty days he is not redeemed.

תְּנַן: מֵת בְּתוֹךְ שְׁלֹשִׁים יוֹם – אַף עַל פִּי שֶׁנָּתַן לַכֹּהֵן – יַחֲזִיר לוֹ חֲמֵשׁ סְלָעִים; טַעֲמָא – דְּמֵת, הָא לָא מֵת – בְּנוֹ פָּדוּי! הָכָא בְּמַאי עָסְקִינַן – דְּאִיתְנְהוּ לַמָּעוֹת.

The Gemara raises a difficulty: **We learned** in the mishna on the previous *amud*: If the firstborn son **dies within thirty days** of birth, **although** the father **gave** five *sela* coins **to the priest,** the priest **must return** the **five *sela*** coins **to him.** The Gemara infers: **The reason** he must return the money is **that** the son **died. But** if he did **not die** within thirty days **his son is redeemed** despite the fact that the father gave the priest the money prior to the proper time. This inference contradicts the opinion of Shmuel. The Gemara answers: **Here we are dealing with** a case **where** the **money is** still **extant,** i.e., in the priest's possession.

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תָּא שְׁמַע: בְּחֻזְקַת שֶׁלֹּא נִפְדָּה עַד שֶׁיֹּאמְרוּ לוֹ שֶׁנִּפְדָּה! הָתָם נַמִּי – דְּאִיתְנְהוּ לַמָּעוֹת בְּעֵינֵיהוּ.

The Gemara comments: **Come** and **hear** another difficulty from the mishna: If the father of the firstborn son dies within thirty days of the birth **the presumptive status of** the son is **that he is not redeemed, until** people **will tell him that he is redeemed.** But if people tell him he is redeemed then the redemption is effective, in contradiction to the opinion of Shmuel. The Gemara answers: **There too,** it is referring **to** a case **where** the **money is** still **extant,** i.e., in the priest's possession.

תָּנֵי תַּנָּא קַמֵּיהּ דְּרַב יְהוּדָה: הַפּוֹדֶה אֶת בְּנוֹ בְּתוֹךְ שְׁלֹשִׁים יוֹם – בְּנוֹ פָּדוּי. אֲמַר לֵיהּ: שְׁמוּאֵל אָמַר אֵין בְּנוֹ פָּדוּי, וְאַתְּ אָמַרְתְּ בְּנוֹ פָּדוּי? וְאַף עַל גַּב דְּקַיְימָא לָן כְּרַב בְּאִיסּוּרֵי וְכִשְׁמוּאֵל בְּדִינֵי, הָכָא הִלְכְתָא כְּוָותֵיהּ דִּשְׁמוּאֵל.

The Gemara relates that **a *tanna* taught** a *baraita* **in the presence of Rav Yehuda:**[B] In the case of **one who redeems his** firstborn **son within thirty days** of his birth, **his son is redeemed.** Rav Yehuda **said to him: Shmuel said his son is not redeemed, and** yet **you say his son is redeemed?** The Gemara comments: **And even though we maintain** that the *halakha* is **in accordance with** the opinion of **Rav in ritual matters and in accordance with** the opinion of **Shmuel in monetary matters, here the *halakha*** is **in accordance with** the opinion **of Shmuel.**

״הוּא לִפְדּוֹת וּבְנוֹ לִפְדּוֹת – הוּא קוֹדֵם לִבְנוֹ״ וכו׳. תָּנוּ רַבָּנָן: הוּא לִפְדּוֹת וּבְנוֹ לִפְדּוֹת – הוּא קוֹדֵם לִבְנוֹ. רַבִּי יְהוּדָה אוֹמֵר: בְּנוֹ קוֹדְמוֹ, שֶׁמִּצְוָתוֹ עַל אָבִיו, וּמִצְוַת בְּנוֹ – עָלָיו.

§ The mishna teaches that if one had both **himself to redeem and his son to redeem, his** own redemption **takes precedence over** that of **his son. The Sages taught** in a *baraita*: If one had both **himself to redeem and his son to redeem, his** own redemption **takes precedence over** that of **his son. Rabbi Yehuda says:** The redemption of **his son takes precedence, as the mitzva** to redeem the father is incumbent **upon his** own **father, and the mitzva** to redeem **his son** is incumbent **upon him.** Consequently, he should first fulfill the mitzva that is incumbent upon him by redeeming his son.

אָמַר רַבִּי יִרְמְיָה: הַכֹּל מוֹדִים הֵיכָא דְּלֵיכָּא אֶלָּא חָמֵשׁ סְלָעִים – הוּא קוֹדֵם לִבְנוֹ, מַאי טַעֲמָא – דְּמִצְוָה דִּידֵיהּ עָדִיף. כִּי פְּלִיגִי – הֵיכָא דְּאִיכָּא חָמֵשׁ מְשׁוּעְבָּדוֹת וְחָמֵשׁ בְּנֵי חוֹרִין;

Rabbi Yirmeya says: Everyone concedes that in a case **where there are only five *sela*** coins available and one has to redeem both himself and his son, **his** own redemption **takes precedence over** that of **his son,** despite the indication to the contrary from the mishna. **What is the reason?** The reason is **that his own mitzva is preferable**[N] to one he performs on behalf of others. **Where they disagree** is in a case **where there is** both land worth **five** *sela* coins that is **liened** property that had been previously sold to others **and** land worth **five** *sela* coins that is **unsold** property.

BACKGROUND

A *tanna* taught a *baraita* in the presence of Rav Yehuda – תָּנֵי תַּנָּא קַמֵּיהּ דְּרַב יְהוּדָה: This expression describes a situation where a *baraita* was recited in the presence of the head of the academy or study hall, who then commented on it. This *tanna* who recited the *baraita* was not one of the Sages of the Mishna. Rather, the title refers to the later use of the term, meaning one with broad knowledge of tannaitic statements and *mishnayot*. Despite his knowledge, this person was not considered one of the Sages because he was unable to resolve difficult issues that arose in the texts that he recited. The *tanna* would recite the material in the presence of one of the Sages, who would assess its accuracy and either confirm it or, if need be, correct it.

NOTES

His own mitzva is preferable – מִצְוָה דִּידֵיהּ עָדִיף: This is puzzling, as according to Rabbi Yehuda in the mishna the mitzva to redeem him is incumbent upon his father, whereas the mitzva to redeem his son is incumbent upon him. If so, one's own obligation should take preference over a mitzva that is the obligation of others *ab initio*. Rashi indicates that according to Rabbi Yirmeya, Rabbi Yehuda's statement in the mishna is not referring to the obligation of the mitzva but to the lien on property, i.e., the property is on lien for his own redemption from his father's time. In the parallel discussion in tractate *Kiddushin* (29b), Rashi maintains that Rabbi Yehuda's statement should be understood in a straightforward manner, that with regard to the obligation of the mitzva he is indeed required to redeem his son, and even so Rabbi Yirmeya claims that a mitzva that applies to his own body takes precedence over a mitzva that he must perform with regard to another, i.e., the redemption of his son. Some commentaries suggest that beyond the basic obligation of redeeming a firstborn, the redemption has a beneficial effect on the firstborn's soul, and in this regard a person's own good takes preference over the good of another (*Reshit Bikkurim*, citing Rabbeinu Baḥya).

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רַבִּי יְהוּדָה סָבַר: מִלְוֶה הַכְּתוּבָה בַּתּוֹרָה – כִּכְתוּבָה בִּשְׁטָר דָּמְיָא, וְיֵרֵיהּ – אָזֵיל וְטָרֵיף מִמַּשְׁעְבְּדֵי, וּבְהָנֵי חָמֵשׁ בְּנֵי חוֹרִין – פָּרֵיק לֵיהּ לִבְרֵיהּ.

The Gemara explains the reasoning behind the dispute: **Rabbi Yehuda maintains** that **a loan that is written in the Torah,**[H] i.e., a financial obligation by Torah law, such as redemption of the firstborn son with five *sela* coins, is **considered as though it is written in a document,** and it can therefore be collected from liened property, as can any loan recorded in a document. Therefore, the five *sela* coins that are liened property are available for one's own redemption but not for that of one's son, as the sale of the property presumably occurred before the birth of his firstborn. **And** therefore the priest **goes and repossesses** the land worth **five** *sela* that is **liened** property **for his** own redemption, like any debt written in a document; **and with those five** *sela* of **unsold** property **he redeems his son.** In this manner, one can fulfill both mitzvot.

וְרַבָּנַן סָבְרִי: מִלְוֶה הַכְּתוּבָה בַּתּוֹרָה – לָאו כִּכְתוּבָה בִּשְׁטָר דָּמְיָא, הִלְכָּךְ – מִצְוָה דִּידֵיהּ עָדִיף.

And the Rabbis maintain: A loan that is written in the Torah is not considered as though it is written in a document, since buyers will not know to guard against repossession if it is not written in a document. Therefore, the five *sela* coins that are liened property are not available for redemption, and consequently **his own mitzva is preferable.** He accordingly redeems himself with the land that is not liened.

מתני׳ חֲמֵשׁ סְלָעִים שֶׁל בֶּן – בְּמָנֶה צוֹרִי.

MISHNA The **five** ***sela*** coins **of** the redemption of **the** firstborn **son,**[H] with regard to which it is written: "Five shekels of silver, after the shekel of the Sanctuary" (Numbers 18:16), are calculated **using a Tyrian *maneh*.**[NB] The silver content of the Tyrian coinage is significantly higher than that of provincial coinage, which is worth one-eighth its value.

NOTES

Using a Tyrian *maneh* – בְּמָנֶה צוֹרִי: In many instances in the Mishna the term *maneh* means a sum of one hundred silver dinars. If so, this mishna is teaching that one must pay the five *sela* of the redemption of a firstborn son in silver Tyrian shekels, with each *sela* coin worth one twenty-fifth of a Tyrian *maneh*. By contrast, the Rambam maintains that a Tyrian *maneh* here means that one must use the purest silver coinage, similar to the silver Tyrian coin. Yet others contend that in this context the term *maneh* is similar to the word *minyan*, counting, i.e., the counting is in accordance with the system of the Tyrian coinage (*Tiferet Yisrael*; see Ramban on Exodus 30:13).

HALAKHA

A loan that is written in the Torah – מִלְוֶה הַכְּתוּבָה בַּתּוֹרָה: If one does not have sufficient unsold property to redeem his son, the priest cannot claim the sum from liened property, even if the redemption debt preceded the debtor's debt. This ruling is in accordance with the opinion of the Rabbis, who hold that a loan mandated by the Torah is not considered as though it is written in a document (*Shulḥan Arukh*, *Yoreh De'a* 305:16, and see *Be'er HaGola* there).

The five *sela* of the redemption of the firstborn son – חֲמֵשׁ סְלָעִים שֶׁל בֶּן: A firstborn male Jew is redeemed with a value of five silver *sela* in the shekel of the Sanctuary, as every time the Torah mentions silver coins it is referring to the shekel of the Sanctuary. According to the Rambam, the amount of silver for each *sela* coin is equal to the weight of 384 barley kernels, which is 17 g of refined silver. Those five *sela* are given to the priest as money or, alternatively, the Israelite can pay the priest by giving him an item that has the value of five *sela* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:6; *Sefer Zemanim*, *Hilkhot Shekalim* 1:2; and *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:2; *Yoreh De'a* 305:3).

BACKGROUND

Tyrian *maneh* – מָנֶה צוֹרִי: There was an independent currency minted in the city of Tyre that was in circulation for about five hundred years during the Second Temple period, until slightly prior to the destruction of the Temple. Tyrian coinage was respected throughout the Middle East due to the stability of its value. In contrast to the coinage of other monarchies, throughout the years the Tyrian coinage consistently contained over 90 percent silver. Since Jews under Roman and Greek occupation were not allowed to mint their own coinage, even the obligatory half-shekel to the Temple was paid only in Tyrian shekels. It is therefore possible that the mishna is referring to payment in Tyrian shekels. Another possibility is that the mention of Tyrian coinage is not referring to a specific coin but serves to differentiate it from provincial coinage, which operated in parallel and was worth one-eighth of the Tyrian coinage (see 50b).



Ancient Tyrian coins

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LANGUAGE

Sela [*istera*] – **אִיסְתָּרָא:** This is the name of a Greek and Roman coin, taken from the Greek word στατήρ, statēr, coin.

שְׁלֹשִׁים שֶׁל עֶבֶד, חֲמִשִּׁים שֶׁל אוֹנֵס וְשֶׁל מְפַתֶּה, וּמֵאָה שֶׁל מוֹצִיא שֵׁם רַע – כּוּלָּם בְּשֶׁקֶל הַקֹּדֶשׁ בְּמָנֶה צוֹרִי. וְכוּלָּן נִפְדִּין בְּכֶסֶף וּבְשָׁוֶה כֶּסֶף, חוּץ מִשְּׁקָלִים.

With regard to the **thirty** shekels paid to the owner **of** a Canaanite **slave**[H] who is killed by an ox (see Exodus 21:32), and the **fifty** shekels paid **by a rapist** (see Deuteronomy 22:29) **and by a seducer**[H] (see Exodus 22:16) of a young virgin woman, **and** the **one hundred** shekels paid **by the defamer**[H] of his bride with the claim that she is not a virgin (see Deuteronomy 22:19), **all of them,** even those cases where the word shekel is not explicitly written, are paid **in the shekel of the Sanctuary,** whose value is twenty *gera* (see Numbers 18:16) and that is calculated **using a Tyrian *maneh*. And all** monetary obligations **are redeemed,** i.e., paid, **with** coins **or with** items of **the equivalent** value of **money, except for the** half-**shekels** that are donated to the Temple each year, which must be given specifically as coins.

גמ׳ מָנֶה צוֹרִי. אָמַר רַבִּי אַסִי: מָנֶה שֶׁל צוֹרִי. רַבִּי אַמִּי אָמַר: דִּינָרָא עַרְבָא. רַבִּי חֲנִינָא אוֹמֵר: אִיסְתָּרָא סָרְסָיָא דְּמִיזַּבְּנָא תְּמַנְיָא בְּדִינָרָא, חֲמֵשׁ מִינַּיְיהוּ לְפִדְיוֹן הַבֵּן.

GEMARA The mishna stated that the five *sela* coins of the redemption of the son are calculated using **a Tyrian *maneh*.** In explanation of this, **Rabbi Asi says:** One must give five *sela* of **the *maneh*** used **in Tyre.**[NB] **Rabbi Ami says:** The five *sela* coins are equal to a golden **Arabian dinar. Rabbi Ḥanina says:** There is **a Syrian *sela* [*istera*],**[NL] **eight** of **which are sold for** a large golden **dinar.** One must give **five of these for the redemption of the son.**

HALAKHA

The thirty shekels paid to the owner of a Canaanite slave – שְׁלֹשִׁים שֶׁל עֶבֶד: If someone's animal kills a Canaanite slave he is required to pay a fine, as stated in the Torah. This fine is thirty *sela* of silver in the shekel of the Sanctuary, regardless of the slave's actual worth, as whenever the Torah speaks of silver coins it is referring to the shekel of the Sanctuary (Rambam *Sefer Nezikin*, *Hilkhot Nizkei Mamon* 11:1 and *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:2).

The fifty shekels paid by a rapist and by a seducer – חֲמִשִּׁים שֶׁל אוֹנֵס וְשֶׁל מְפַתֶּה: One who rapes or seduces a young virgin woman is required to pay a fine of fifty *sela* of pure silver in the shekel of the Sanctuary, as whenever the Torah speaks of silver coins it is referring to the shekel of the Sanctuary (Rambam *Sefer Nashim*, *Hilkhot Na'ara Betula* 1:1; *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:2).

And the one hundred shekels by the defamer – וּמֵאָה שֶׁל מוֹצִיא שֵׁם רַע: One who slanders his wife must pay her father a fine of one hundred *sela* of pure silver. If she is an orphan the money belongs to her. This money must be paid in the shekel of the Sanctuary, as whenever the Torah speaks of silver coins it is referring to the shekel of the Sanctuary (Rambam *Sefer Nashim*, *Hilkhot Na'ara Betula* 3:1; *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:2).

NOTES

A Tyrian *maneh*…the *maneh* used in Tyre – מָנֶה צוֹרִי…מָנֶה שֶׁל צוֹרִי: Rashi indicates that Rabbi Asi is saying that when the mishna mentions a Tyrian *maneh* it is referring to the coinage of Tyre in Rabbi Asi's days, whose weight was known, as Rashi notes elsewhere (Exodus 21:32): It was half an ounce according to the official weight of Cologne. It is possible that Rabbi Asi is teaching that the silver content of the Tyrian coinage had not changed, or perhaps he is stating that this is the coin used despite the fact that it had changed (*Ḥazon Ish*).

It can further be inferred from Rashi that the *amora'im* cited here disagree concerning the value of a Tyrian *maneh*, and therefore with regard to how much one is obligated to give for the redemption of a firstborn son. Others maintain there is no practical difference between their opinions; rather, each suggested a different coin of the same monetary value, i.e., the same weight in silver. It is also possible to explain, even according to Rashi, that Rabbi Asi is merely interpreting the mishna, while the other *amora'im* disagree with regard to the practical halakhic conclusions based on the mishna.

Rabbi Ḥanina says there is a Syrian *sela* [*istera sarsaya*] – רַבִּי חֲנִינָא אוֹמֵר אִיסְתָּרָא סָרְסָיָא: According to *Tosafot*, whose explanation is followed in the commentary, Rabbi Ḥanina, like the other Sages, translates the amount required for redemption into a different coinage; in his case, the coinage of Syria [*sarsiya*]. According to this interpretation, the golden Syrian dinar is larger than the golden Tyrian dinar, which was the regular dinar used: Five-eighths of the Syrian dinar is equal to four-fifths of a golden Tyrian dinar. By contrast, Rashi explains that Rabbi Ḥanina is not referring to a Syrian coin at all. Rather, the word: *Sarsaya*, means old or worn-out. This worn-out coin is worth only one-eighth of a golden Tyrian dinar, while a regular *sela* coin is worth slightly less than one-sixth of a golden dinar. See also Rabbeinu Gershom Meor HaGola, who explains *sarsiya* as referring to lighter coins.

Tosafot, who possibly had a different version of Rashi's commentary, explain Rashi as saying the following: Rabbi Ḥanina maintains, in contrast to the ruling of the mishna, that the *sela* coin for the redemption of the firstborn is one-eighth of a silver Tyrian dinar, as he is not referring to the golden dinar. If so, the measure suggested for the redemption of the firstborn is significantly smaller than the measure suggested according to the other opinions (see *Ḥazon Ish*, *Ḥoshen Mishpat* 16:11).

BACKGROUND

The *maneh* used in Tyre – מָנֶה שֶׁל צוֹרִי: The Roman emperor Nero shut down the Tyrian coinage in approximately 60 CE, replacing it with a Roman coinage. Nevertheless, the silver Tyrian shekels of the independent Tyrian coinage were still in circulation for about another hundred years, which was during the period of the Mishna. It is possible that following that time, the question arose concerning the precise value of Tyrian coinage, and this may be the basis of the discussion in the Gemara here.

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רַבִּי יוֹחָנָן אוֹמֵר: דִּינָרָא הַדְרְיָנָא טְרְיָינָא שַׁיְיפָא, דְּמִזְבְּנָא בְּעֶשְׂרִים וַחֲמִשָּׁה זוּזֵי, דַּל מִינַּיְיהוּ שְׁתוּתָא – וְהָנָךְ לְפִדְיוֹן הַבֵּן. הָנֵי עֶשְׂרִין וְחַד נְבִי דַּנְקָא הָווּ!

Rabbi Yoḥanan says: If one wishes to know how much to give for the redemption of the firstborn son, take **the worn-out** gold **dinars of Hadrian** and **Trajan,**[BN] **which are sold at twenty-five dinars,** and **deduct from them one-sixth. And these** that remain are the five *sela* that one must give **for the redemption of the** firstborn **son,** i.e., twenty dinars, as there are four dinars in a *sela*. The Gemara challenges: After deducting one- sixth from twenty-five, one **is** not left with twenty dinars, but **twenty-one** dinars **less one-sixth** [***danka***][L] of a dinar.

אֶלָּא: דַּל שְׁתוּתָא וְזוּזָא, וְהָנָךְ לְפִדְיוֹן הַבֵּן. אַכַּתִּי עֶשְׂרִין נְבִי דַּנְקָא הָווּ! אֶלָּא, דַּל זוּזָא וּשְׁתוּתָא, וְהָנָךְ לְפִדְיוֹן הַבֵּן. דְּהָווּ לְהוּ עֶשְׂרִין מַתְקָלֵי בְּמַתְקָלֵי דִּינָרָא, דְּאִינּוּן עֶשְׂרִין וּתְמָנְיָא זוּזֵי וּפַלְגָּא דַּנְקָא.

Rather, deduct one-sixth and another **dinar, and these** that are left are **for the redemption of the** firstborn **son.** The Gemara challenges: But the calculation is **still** inexact, as this sum is **twenty** dinars **less one-sixth** of a dinar. **Rather,** first **deduct** one **dinar, and** from the remainder, i.e., twenty-four dinars, deduct **one-sixth, and these** that are left are the five *sela* coins that one must give **for the redemption of the son.** The Gemara notes **that these are** a weight of **twenty *matkalei*[L] of** the small golden **dinars** known as ***matkalei*,**[N] **which are** worth **twenty-eight and a half dinars, and half of a sixth** of a dinar, in Arabian silver dinars.

אָמַר רָבָא: סִילְעִים דְּאוֹרַיְיתָא – תְּלָתָא וְתִילְתָּא הָווּ, דִּכְתִיב: ״עֶשְׂרִים גֵּרָה הַשֶּׁקֶל״, וּמְתַרְגְּמִינַן: עֶשְׂרִין מָעִין, וְתַנְיָא: שֵׁשׁ מָעָה כֶּסֶף – דִּינָר.

§ **Rava says: The biblical *sela*** coins, i.e., the shekels that must be given for the redemption of the firstborn son, **are** each **three and one-third** dinars in weight, not four dinars. **As it is written: "The shekel is twenty *gera*"** (Exodus 30:13), **and we translate** "twenty *gera*" as **twenty *ma'a*. And it is taught** in a *baraita*: **Six silver *ma'a*** equal **a dinar.** If so, twenty *ma'a*, which is equal to the *sela* of the Torah, is worth three and one-third dinars.

מֵיתִיבִי: וַהֲלֹא סֶלַע שֶׁל קֹדֶשׁ אַרְבָּעִים וּשְׁמֹנָה פּוּנְדְיוֹנִין,

The Gemara **raises an objection** from a *baraita*, which discusses the *halakha* of one who redeems an ancestral field from the Temple treasury. The Torah states that one who consecrates his field in the Jubilee year gives as its redemption, for each of the upcoming forty-nine years, fifty *sela* for each area fit for the sowing of a *kor* of barley seed. In this regard, the Sages have said that one gives a *sela* and a *pundeyon*, which is half a *ma'a*, per year. The *baraita* notes a discrepancy here: **But** in **the *sela*** coins **of the Sanctuary** there are **forty-eight *pundeyon*,** which means that according to the statement of the Sages, the redemption for forty-nine years amounts to forty-nine *sela* and forty-nine *pundeyon*, i.e., fifty *sela* and a *pundeyon*, one *pundeyon* more than the sum required by the Torah.

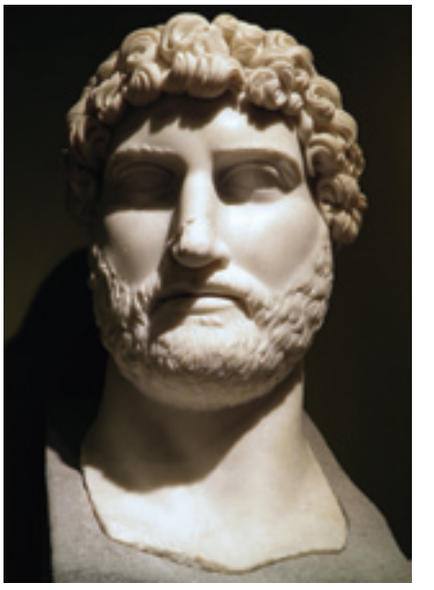
פּוּנְדְיוֹן זֶה מַה טִּיבּוֹ – קִילְּבּוֹן לְפְרוֹטְרוֹט!

The *baraita* explains: **This *pundeyon*, what is its function?** It is **a premium** [***kilbon***][L] **for exchanging** the *sela* into *pundeyon*. In any case, this *baraita* teaches that there are forty-eight *pundeyon* in the *sela* of the Torah, which is twenty-four *ma'a*. This contradicts the statement of Rava, who said that the *sela* of the Torah is worth only twenty *ma'a*.

BACKGROUND

Dinars of Hadrian and Trajan – דִּינָרָא הַדְרְיָנָא טְרְיָינָא: This apparently refers to coins minted by the caesars Hadrian, who ruled during the years 117–138 CE, and Trajan, who ruled immediately before him, during the years 98–117 CE.

This coin was minted in Aelia Capitolina, the city established by Hadrian on the ruins of Jerusalem. It is therefore possible that the silver used in minting these coins originated in the Temple treasury, where large amounts of silver had been received for the payment of the half-shekel, which was collected in an attempt to renew the Temple service during the rebellion against the Romans.



Bust of Hadrian

NOTES

The worn-out [*shaifa*] dinars of Hadrian and Trajan – דִּינָרָא הַדְרְיָנָא טְרְיָינָא שַׁיְיפָא: Rashi explains that these are coins of the caesars Hadrian and Trajan, which were minted in Jerusalem and were very worn-out due to their age. Although Rashi also writes that *shaifa* is the name of a king, he does not mean that there was a King Shaifa; rather, the name of the king is worn out (Rashash). Others explain that this is referring to a specific coin that is round [*hadriyyana*] and large [*teriyyana*] (*Tosafot*, citing Rabbeinu Tam).

These are a weight of twenty *matkalei* of the small golden dinars known as *matkalei* – הָווּ לְהוּ עֶשְׂרִין מַתְקָלֵי בְּמַתְקָלֵי דִּינָרָא: Some commentaries claim that this clause was added to the Gemara by the *ge'onim*, who evaluated the coins based on the coinage in circulation in their day (*Tosafot* on 49b; see also Rashi).

LANGUAGE

One-sixth [*danka*] – דַּנְקָא: *Danka* is a Persian monetary unit that appears in Middle Persian sources as dāng. Like the Aramaic *ma'a*, it constituted one-sixth of a dinar.

***Matkalei* – מַתְקָלֵי:** The term *matkal* in the Talmud generally means weight. In the period of the *ge'onim*, which is when this clause appears to have been added to the Gemara, it referred to a small golden dinar used in Muslim lands. This coin weighed 4.25 g and its name is derived from the Arabic مثقال, *mithqāl*.

Premium [*kilbon*] – קִילְּבּוֹן: From the Greek κόλοβον, *kolobon*, which means an amount.

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HALAKHA

After the Sages added – בָּתַר דְּאוֹסִיפוּ: The shekel stated in the Torah is called a *sela* by the Sages, and the *gera* mentioned in the Torah is a *ma'a* in the terminology of the Sages. The Sages added one-sixth to the coins, so that a *sela* is worth four dinars and a dinar six *ma'a* (Rambam *Sefer Zemanim*, *Hilkhot Shekalim* 1:3 and *Sefer Hafla'a*, *Hilkhot Arakhin* 4:3).

LANGUAGE

***Litra* – לִיטְרִין:** From the Greek λίτρα, *litra*, which is the equivalent of the Roman *litra*. This term has several meanings in Greek, including a measure of volume, a measure of weight, and the name of a coin. A Greek *litra* weighs 327 g.

Centenaria [*kintarin*] – קִינְטָרִין: From the Greek κεντηνάριος, kentēnarios, and the Latin centenarius. It denotes an item whose weight or number is related to one hundred.

בָּתַר דְּאוֹסִיפוּ עִילָּוַיְיהוּ. דְּתַנְיָא: ״עֶשְׂרִים גֵּרָה הַשֶּׁקֶל״ – לָמַדְנוּ לַשֶּׁקֶל שֶׁהוּא עֶשְׂרִים גֵּרָה, וּמִנַּיִן שֶׁאִם רָצָה לְהוֹסִיף יוֹסִיף – תַּלְמוּד לוֹמַר: ״יִהְיֶה״; יָכוֹל יִפָּחוֹת? תַּלְמוּד לוֹמַר: ״הוּא״.

The Gemara answers that the *baraita* is referring to the period after the Sages added[H] one-sixth to the coins, i.e., four *ma'a* to each *sela*. As it is taught in a *baraita*, with regard to the verse: **"Twenty *gera* shall be the shekel"** (Leviticus 27:25): **We learn** from here **with regard to the shekel** mentioned in the Torah **that it is twenty *gera*. And from where** is it derived **that if one wants to add** to the number of *ma'a* in the shekel **he may add?[N] The verse states:** "Twenty *gera* **shall be** the shekel," whereby the term "shall be" denotes an increase. One **might** have thought that one **may reduce** the number of *ma'a* in the shekel to fewer than twenty. Therefore, **the verse states: "The same** is twenty *gera*" (Numbers 18:16), i.e., it may not be fewer than that.

רַב אַשִׁי שָׁדַר לֵיהּ שִׁבְסַר זוּזֵי לְרַב אַחָא בְּרֵיהּ דְּרָבִינָא בְּפִדְיוֹן הַבֵּן, שְׁלַח לֵיהּ: לִישָׁדַר לִי מָר תִּלְתָא יְתִירְתָא דְּאֵיכָּא עִלָּוַיְיהוּ! שְׁלַח לֵיהּ: לִשְׁדַר לִי מָר תִּלְתָא אַחֲרִינָא דְּאוֹסִיפוּ עִילָּוַיְיהוּ!

The Gemara relates that Rav Ashi sent seventeen dinars[N] to Rav Aḥa, son of Ravina, a priest, **for the redemption of the** firstborn **son.** Along with the money, Rav Ashi **sent him** the following message: **Let the Master send me** back **the extra one-third** of a dinar **that is** included **in** the sum. Since according to Rava the *sela* of the Torah is worth three and one-third dinars, five *sela* amount to sixteen dinars and two-thirds, which is one-third less than the seventeen dinars he sent. Rav Aḥa **sent him** in response: **Let the Master send me the other three** dinars **that** the Sages **added to them,** since after the Sages added to the *sela* of the Torah, five *sela* are equal to twenty dinars, three more than the seventeen Rav Ashi sent.

אָמַר רַבִּי חֲנִינָא: כָּל כֶּסֶף הָאָמוּר בַּתּוֹרָה סְתָם – סֶלַע, דִּנְבִיאִים – לִיטְרִין, דִּכְתוּבִין – קִינְטָרִין; חוּץ מִן כַּסְפּוֹ שֶׁל עֶפְרוֹן, שֶׁאַף עַל פִּי שֶׁכָּתוּב בַּתּוֹרָה סְתָם – קִינְטָרִין, דִּכְתִיב: ״אַרְבַּע מֵאוֹת שֶׁקֶל כֶּסֶף עוֹבֵר לַסּוֹחֵר״, וְאִיכָּא דּוּכְתָּא דִּקְרוּ לְקִינְטָרָא ״תִּיקְלָא״.

§ **The Gemara continues to discuss the value of coins. Rabbi Ḥanina says: Any silver** shekel **that is stated in the Torah** but which is **unspecified** is referring to one ***sela*. Additionally,** any unspecified silver shekel mentioned **in the Prophets** is a silver ***litra*,**[L] weighing twenty-five *sela*, and any unspecified silver shekel mentioned **in the Writings** is in **centenaria [*kintarin*],**[L] silver weighing one hundred *sela*. This is the case throughout the Bible **except for the silver of Ephron, where even though it is written in the Torah:** "Shekels of silver," **without specification,** it is in **centenaria, as it is written: "Four hundred shekels of silver, current money with the merchant"** (Genesis 23:16). This means that the silver was acceptable as shekels everywhere, **and there is a place where they call a centenarius a shekel.**

אָמַר רַבִּי אוֹשַׁעְיָא: בִּיקְּשׁוּ לִגְנוֹז כָּל כֶּסֶף וְזָהָב שֶׁבָּעוֹלָם מִפְּנֵי כַסְפָּהּ וְזָהְבָהּ שֶׁל יְרוּשָׁלַיִם, עַד שֶׁמָּצְאוּ לוֹ מִקְרָא מִן הַתּוֹרָה שֶׁהוּא מוּתָּר, שֶׁנֶּאֱמַר: ״וּבָאוּ בָהּ פָּרִיצִים וְחִלְּלוּהָ״.

With regard to the worn-out dinars of Hadrian and Trajan mentioned earlier, Rabbi Oshaya says: The Sages **wished to sequester all the silver and gold in the world because of the silver and gold of Jerusalem,[N]** i.e., that which was kept in the Temple treasury and was appropriated by gentiles and mixed with other silver and gold. They did not permit its use **until they found a verse in the Torah** indicating **that it is permitted, as it is stated: "And robbers shall enter into it, and profane it"** (Ezekiel 7:22). This verse teaches that once robbers plundered the silver and gold it is profaned and does not retain its sanctity.

NOTES

And from where is it derived that if one wants to add to the number of *ma'a* in the shekel he may add – וּמִנַּיִן שֶׁאִם רָצָה לְהוֹסִיף יוֹסִיף: The later commentaries disagree with regard to how this addition was carried out in practice. Some say the Sanhedrin authorized the increase, and they mandated the evaluation of the shekels of the Torah based on the new rate. Accordingly, there is no halakhic significance to the names of the coins (*Ḥazon Ish*, *Ḥoshen Mishpat* 16:14). Others maintain the addition was instituted by the ruling authorities, and the *baraita* is teaching that one must follow the value of the silver coins as determined by the government, but only when they add to it, not when they reduce it (*Tzafenat Pa'ane'aḥ* on *Shekalim* 1:4).

Rav Ashi sent seventeen dinars – רַב אַשִׁי שָׁדַר לֵיהּ שִׁבְסַר זוּזֵי: Rav Ashi's opinion apparently contradicts the ruling of the *baraita* from which a difficulty was raised against the opinion of Rava, as that *baraita* states they added to the measure of a shekel. Some claim that although the Sages added one-sixth to the measure of the shekel mentioned in the Torah, nevertheless, with regard to the redemption of the firstborn one must pay in accordance with the original rate (Ritva on *Kiddushin* 11a, citing his teacher). The *baraita* refers to other areas of Torah law, e.g., the payments of the rapist and the defamer (see Maharit Algazi). It is also possible the *baraita* is addressing the general concept of adding to the value of coins, i.e., it permits the members of a city to add to measures and rates but not to decrease them, due to the concern that this will lead to errors and confusion. This would then be consistent with the Gemara in *Bava Batra* 90a that states: One may not increase measures or the value of a coin by more than one-sixth of its previous value.

The silver and gold of Jerusalem – כַּסְפָּהּ וְזָהְבָהּ שֶׁל יְרוּשָׁלַיִם: Rashi explains that this refers to the consecrated silver located in the chamber of the Temple treasury. Elsewhere Rashi states that it refers to the available silver in all of Jerusalem, as most of it was consecrated (*Avoda Zara* 52b). Others maintain it refers to the silver used for redeeming both consecrated property and the second tithe that people would bring to Jerusalem (Rabbeinu Gershom Meor HaGola; see *Shekalim* 7:2).

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וִירוּשָׁלַיִם הָוְיָא רוּבָּא דְּעָלְמָא? אֶלָּא אֲמַר אַבַּיֵי: בִּקְשׁוּ לִגְנוֹז דִּינָרָא הַדְרָיָנָא טִירְיָאנָא שַׁיָּאפָא מִפְּנֵי טִבְעָהּ שֶׁל יְרוּשָׁלַיִם, עַד שֶׁמָּצְאוּ לָהּ מְקָרָא מִן הַתּוֹרָה שֶׁהוּא מוּתָּר, שֶׁנֶּאֱמַר: ״וּבָאוּ בָּהּ פָּרִיצִים וְחִלְּלוּהָ״.

The Gemara asks: **And is Jerusalem the majority of the world** such that that all of the silver and gold of the world should be prohibited due to a concern that it comes from Jerusalem? **Rather, Abaye said:** The Sages **wished to sequester all the worn-out dinars of Hadrian and Trajan because of the coins of Jerusalem,** as these coins contained a large quantity of the Temple treasury's gold and silver, **until they found a verse in the Torah** indicating **that it is permitted, as it is stated: "And robbers shall enter into it, and profane it."**

Perek **VIII**
Daf **50** Amud **b**

רַב יְהוּדָה אָמַר רַב אַסִי: כָּל ״כֶּסֶף״ הָאָמוּר בַּתּוֹרָה סְתָם – כֶּסֶף צוֹרִי, וְשֶׁל דִּבְרֵיהֶם – כֶּסֶף מְדִינָה.

§ **Rav Yehuda** says that **Rav Asi says: Every** sum of **money stated in the Torah**[H] **without specifying** that it is in shekels is referring to silver dinars of **Tyrian coinage,** which have a high value. **And** every mention of coins in **statements of** the Sages is referring to **provincial coinage,**[N] which was worth roughly one-eighth of Tyrian coinage.

וּכְלָלָא הוּא? וְהָרֵי טַעֲנָה, דִּכְתִיב: ״כִּי יִתֵּן אִישׁ אֶל רֵעֵהוּ כֶּסֶף אוֹ כֵּלִים לִשְׁמֹר״,

The Gemara challenges: **And is** it an established **principle** that all money mentioned in the Torah is a silver dinar of Tyrian coinage? **But there is** the case of one who admits to part of **a claim**[N] **that** he has not returned a deposit or loan, where **it is written: "If a man deliver to his neighbor money or vessels to guard** and it is stolen out of the man's house… the cause of both parties shall come before the judges" (Exodus 22:6–8). This teaches that the case is brought to a court, where the defendant must take an oath.

וְתָנַן: שְׁבוּעַת הַדַּיָּנִין, הַטַּעֲנָה שְׁתֵּי כֶסֶף!

And we learned in a mishna with regard to one who admits to part of a claim (*Shevuot* 38b): **The oath** administered **by the judges** to one who admits to part of a claim is administered only when **the claim** is for at least **two silver** *ma'a*,[H] and the defendant's admission is to at least the value of one *peruta*. If every sum of money mentioned in the Torah is referring to Tyrian coinage, how did the Sages arrive at the amount of two *ma'a* in this case?

שָׁאנֵי הָתָם דִּכְתִיב: ״כֶּסֶף אוֹ כֵּלִים״, מַה כֵּלִים – שְׁנַיִם, אַף כֶּסֶף – שְׁנַיִם; וּמַה כֶּסֶף – דָּבָר חָשׁוּב, אַף כֵּלִים – דָּבָר חָשׁוּב.

The Gemara explains: **There,** the *halakha* is derived from a juxtaposition, as the "money" mentioned in the verse is **similar to "vessels": Just as** the word **"vessels"** indicates at least **two, so too, "money"** is referring to at least **two** coins. **And just as money is a significant item,** i.e., silver *ma'a*, **so too,** the **vessels** must be **a significant item.** Rav Asi, by contrast, is referring to a mention of money where there is no juxtaposition.

HALAKHA

Every sum of money stated in the Torah – כָּל כֶּסֶף הָאָמוּר בַּתּוֹרָה: Every sum of money mentioned in the Torah with regard to rape, seduction, slander, killing a slave, and redemption of a firstborn son is paid in shekels, which are pure silver. The Sages say these amounts must be paid by the weight of the *sela* in use during the Second Temple period. The sums established by rabbinic law refer to coinage that existed in the time of the Sages, which was worth one-eighth of the value of the money stated in the Torah (Rambam *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:2 and *Sefer Nashim*, *Hilkhot Ishut* 10:8; *Shulḥan Arukh*, *Ḥoshen Mishpat* 420:42).

The oath administered by the judges is administered only when the claim is for at least two silver *ma'a* – שְׁבוּעַת הַדַּיָּנִין הַטַּעֲנָה שְׁתֵּי כֶסֶף: One who admits to part of a claim made against him is required to take an oath only if the claim is worth at least two *ma'a* and if the defendant admits to owing at least one *peruta* (Rambam *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:1–2; *Shulḥan Arukh*, *Ḥoshen Mishpat* 88:1).

NOTES

Provincial coinage – כֶּסֶף מְדִינָה: The Rambam indicates that provincial coinage refers to the coins in circulation in Eretz Yisrael during the period of the Mishna (*Sefer Nezikin*, *Hilkhot Ḥovel UMazik* 3:10). By contrast, one of the *ge'onim* writes that provincial coinage is Persian money, as the Talmud was edited during the reign of the Persians in Babylonia (*Otzar HaGe'onim*, *Kiddushin* 57). According to this second opinion, the term provincial coinage refers to the coin used in each generation in a particular time and place.

But there is the case of a claim – וְהָרֵי טַעֲנָה: According to Rashi on *Kiddushin* 11b, the difficulty is that this case indicates that the "money" mentioned in the Torah does not have a specific value. Rather, it simply means money in general, which is why the Sages determined with regard to a claim that money of significance is required, i.e., two *ma'a*. But if the meaning of "money" in the Torah is a coin, then if the Torah states "money" here in the singular, why isn't one *ma'a* enough? Rashi's teachers explain, and this is probably Rashi's opinion here as well, that the question is as follows: Since the smallest Tyrian coin is the dinar, why is a claim of two silver *ma'a*, which is one-third of a dinar, sufficiently significant as a claim, rather than a dinar itself? See *Tosafot* and *Shita Mekubbetzet*.

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BACKGROUND

Second tithe – מַעֲשֵׂר שֵׁנִי: Second tithe is set aside after *teruma* has been given to the priests and the first tithe to the Levites. Second tithe was given during the first, second, fourth, and fifth years of the Sabbatical cycle. After second tithe was separated, it was brought to Jerusalem, where it was eaten by its owner. If the journey to Jerusalem was long, rendering the transporting of the produce there difficult, or if the produce became ritually impure, it could be redeemed for an equivalent sum of money. If the owner redeemed his own produce he was obligated to add one-fifth of its value to the price of the redemption. He then took the money to Jerusalem, where it was spent on food to be eaten within the city walls.

Today, in the absence of the Temple, since ritual purification is impossible and second tithe may not be eaten in impurity, it is no longer brought to Jerusalem. It is redeemed for a nominal sum and can be eaten. The *halakhot* of the second tithe are discussed in tractate *Ma'aser Sheni*.

NOTES

Then shall she go out for nothing, without money – וְיָצְאָה חִנָּם אֵין כָּסֶף: This verse in its straightforward sense refers to a Hebrew maidservant, and teaches that she goes free from her master without needing to pay for her freedom. The Gemara (*Kiddushin* 4b) infers from this verse that there is no money for this master but there is money for a different master, i.e., a father, when a free girl leaves her father's jurisdiction via betrothal. He has authority over his daughter like a master, and is therefore entitled to the betrothal money. This interpretation appears to be the source for the Gemara's assumption here that this verse refers to betrothal.

וַהֲרֵי מַעֲשֵׂר, דִּכְתִיב: ״וְצַרְתָּ הַכֶּסֶף בְּיָדֶךָ״, וּתְנַן: הַפּוֹרֵט סֶלַע בְּמָעוֹת מַעֲשֵׂר שֵׁנִי! ״כֶּסֶף״ ״כֶּסֶף״ רִיבָּה.

The Gemara challenges: **But there is** the case of the redemption of second **tithe,**[B] **as it is written: "And bind up the money in your hand"** (Deuteronomy 14:25). **And** yet **we learned** in a mishna (*Ma'aser Sheni* 2:8): With regard to **one who exchanges** copper coins **of second-tithe money** for **a *sela*,**[H] Beit Shammai say: He may exchange the copper coins for the entire silver *sela*. This mishna indicates that second-tithe money, mentioned in the Torah, can be in the form of copper coins, and is not required to be in the form of silver coins. The Gemara explains that the verse states: **"Money," "money,"** using the term more than once. This **serves as an amplification.** In other words, this addition teaches that second-tithe money can be in any coinage, including copper coins.

וַהֲרֵי הֶקְדֵּשׁ, דִּכְתִיב: ״וְנָתַן הַכֶּסֶף וְקָם לוֹ״, וְאָמַר שְׁמוּאֵל: הֶקְדֵּשׁ שָׁוֶה מָנֶה שֶׁחִילְּלוֹ עַל שָׁוֶה פְּרוּטָה – מְחוּלָּל! הֶקְדֵּשׁ נַמִּי, יֶלֶף ״קֹדֶשׁ״ ״קֹדֶשׁ״ מִמַּעֲשֵׂר.

The Gemara challenges: **But** there is the case of **consecrated** property, **as it is written: "And he will give the money and it will be assured to him"** (see Leviticus 27:19). **And Shmuel says:** With regard to **consecrated** property **worth one hundred dinars, which was redeemed**[H] **for** an item **worth one *peruta*, it is redeemed.** Although the word "money" is stated in the Torah, a copper *peruta* may be used. The Gemara answers: **There too,** there is a reason for this unusual *halakha*, as **he derives** this ruling from a verbal analogy using the term **"holy"** mentioned here and **"holy" from** second **tithe** (see Leviticus 27:14, 30). Consequently, one may use any type of coin in this case as well.

וַהֲרֵי קִידּוּשֵׁי אִשָּׁה, דִּכְתִיב: ״וְיָצְאָה חִנָּם אֵין כָּסֶף״, וּתְנַן, בֵּית שַׁמַּאי אוֹמְרִים: בְּדִינָר וּבְשָׁוֶה דִּינָר, וּבֵית הִלֵּל אוֹמְרִים: בִּפְרוּטָה וּבְשָׁוֶה פְּרוּטָה; לֵימָא רַב אַסִי דַּאֲמַר כְּבֵית שַׁמַּאי?

The Gemara challenges: **But** there is the case of **the betrothal of a woman,**[H] **as it is written: "Then shall she go out for nothing, without money"**[N] (Exodus 21:11). **And** yet **we learned** in a mishna (*Kiddushin* 2a) that **Beit Shammai say that** one can betroth her **with one dinar or with** an item that is **worth one dinar, and Beit Hillel say** one can betroth a woman **with one *peruta* or with** any item that is **worth one *peruta*.** If so, **shall we say** that **Rav Asi,** who claims that all sums of money mentioned in the Torah are in Tyrian coinage, **stated** his opinion **in accordance with** the opinion of **Beit Shammai,** even though the *halakha* is in accordance with the opinion of Beit Hillel?

אֶלָּא, אִי אִיתְּמַר הָכִי אִיתְּמַר, אָמַר רַב יְהוּדָה אָמַר רַב אַסִי: כָּל כֶּסֶף קָצוּב הָאָמוּר בַּתּוֹרָה – כֶּסֶף צוֹרִי, וְשֶׁל דִּבְרֵיהֶם – כֶּסֶף מְדִינָה.

The Gemara suggests an alternative explanation: **Rather, if** this **was stated,** it **was stated like this: Rav Yehuda says** that **Rav Asi says: Every set** amount of **money stated in the Torah,** i.e., when a specific amount is mentioned, such as the fifty shekels paid by a rapist (Deuteronomy 22:29), is referring to **Tyrian coinage, and** any amount of money set **by rabbinic law** is in **provincial coinage.**

מַאי קָמַשְׁמַע לָן? תָּנֵינָא: חֲמֵשׁ סְלָעִים שֶׁל בֵּן וכו'!

The Gemara asks: If so, **what is** Rav Asi **teaching us? We** already **learn** all of these *halakhot* explicitly in the mishna: The payment of **five *sela* for** the redemption of a firstborn **son,** the thirty for a Canaanite slave killed by an ox, the fifty of a rapist and of a seducer, and the one hundred of the slanderer are all paid in the shekel of the Sanctuary, which is determined based on Tyrian coinage.

HALAKHA

One who exchanges coins of second-tithe money for a *sela* – הַפּוֹרֵט סֶלַע בְּמָעוֹת מַעֲשֵׂר שֵׁנִי: One who exchanges a *sela* of second-tithe coins, whether inside or outside Jerusalem, may not exchange all of it for copper coins but must exchange a shekel, i.e., one-half a *sela*, for silver *ma'a*, and a shekel for copper coins. This *halakha* is in accordance with the opinion of Beit Hillel in Mishna *Ma'aser Sheni* 2:8, as explained by the Rambam (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser Sheni* 5:14).

Consecrated property worth one hundred dinars which was redeemed – הֶקְדֵּשׁ שָׁוֶה מָנֶה שֶׁחִילְּלוֹ: Consecrated property that is not consecrated to be sacrificed on the altar may be redeemed if one exchanges it for an item of equal value. After the fact, the item is redeemed and loses its sanctity even if one redeemed it for another item worth less than the first item's value. This is the *halakha* even if the item was worth one hundred dinars and was redeemed for another item worth one *peruta* (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 7:8).

The betrothal of a woman – קִידּוּשֵׁי אִשָּׁה: A woman is betrothed with a *peruta* or with an item that is worth a *peruta*, in accordance with the opinion of Beit Hillel on *Kiddushin* 2a (Rambam *Sefer Nashim*, *Hilkhot Ishut* 3:1; *Shulḥan Arukh*, *Even HaEzer* 27:1).

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וְשֶׁל דִּבְרֵיהֶם כֶּסֶף מְדִינָה אִיצְטְרִיכָא לֵיהּ. דְּתָנַן: הַתּוֹקֵעַ לַחֲבֵירוֹ – נוֹתֵן לוֹ סֶלַע; וְלָא תֵּימָא סֶלַע – אַרְבַּע זוּזֵי, אֶלָּא פַּלְגָּא דְּזוּזָא, דְּקָרֵי אֵינָשֵׁי ״סֶלַע״ – פַּלְגָּא דְּזוּזָא.

The Gemara answers: **It was necessary for** Rav Asi to clarify that payments mentioned in **statements of** the Sages are referring to **provincial coinage,** as that *halakha* was not taught in the mishna. **As we learned** in a mishna (*Bava Kamma* 90a): The Sages established that **one who strikes another**[NH] as an act of disrespect **must give him a *sela*** as a fine for striking him. **And** Rav Asi teaches: **Do not say** that this ***sela*** is a Tyrian *sela* worth **four dinars. Rather,** it is the *sela* of provincial coinage, which is worth **one-half a dinar, as people** commonly **call a one-half dinar** by the name ***sela.***

חָנָן בִּישָׁא תְּקַע לֵיהּ לְהַהוּא גַּבְרָא, אֲתָא לְקַמֵּיהּ דְּרַב הוּנָא, אֲמַר לֵיהּ: הַב לֵיהּ פַּלְגָּא דְּזוּזָא. הֲוַת אִיכָּא

The Gemara relates that **Ḥanan the wicked struck a certain man. He came before Rav Huna** for judgment, and Rav Huna **said to him: Go give him half a dinar,** which is the fine imposed for such an action. Ḥanan **had**

NOTES

One who strikes [*hatoke'a*] another – הַתּוֹקֵעַ לַחֲבֵירוֹ: Rashi suggests two explanations of the word *hatoke'a*. It refers either to one who shouts in the ear of another or to one who smacks him on the head near the ear. Others maintain that it means one who claps his hands in a mocking gesture (Rabbeinu Barukh on *Bava Kamma* 36b). Alternatively, *hatoke'a* refers to hitting another with the palm of his hand (Rambam *Sefer Nezikin*, *Hilkhot Ḥovel UMazik* 3:9).

HALAKHA

One who strikes another – הַתּוֹקֵעַ לַחֲבֵירוֹ: One who strikes another with the palm of his hand is required to pay a *sela* in provincial coinage, which is one-half a silver dinar. This *halakha* is in accordance with the opinion of the first *tanna* in the mishna on *Bava Kamma* 90a (Rambam *Sefer Nezikin*, *Hilkhot Ḥovel UMazik* 3:9; *Shulḥan Arukh*, *Ḥoshen Mishpat* 420:41).

Perek **VIII**
Daf **51** Amud **a**

זוּזָא מָאכָא בְּהֲדֵיהּ דְּלָא נָפִיק, תְּקַע לֵיהּ אַחֲרִינָא וְיָהֲבֵיהּ נִיהֲלֵיהּ.

an impaired dinar[NB] **with him, which was not** in **circulation,** and his victim did not want to accept it from him. Ḥanan the wicked then **struck him another** time, rendering himself liable to pay an additional fine of one-half a dinar, **and gave him** the full dinar as payment for both strikes.

״שְׁלֹשִׁים שֶׁל עֶבֶד חֲמִשִּׁים שֶׁל אוֹנֵס וְשֶׁל מְפַתֶּה״ וכו׳. הָא תּוּ לָמָּה לִי? הָא תְּנָא לֵיהּ רֵישָׁא!

§ The mishna teaches: The **thirty** shekels paid to the owner **of** a Canaanite **slave** who is killed by an ox, and the **fifty** shekels paid **by a rapist and by a seducer,** and the one hundred shekels paid by the defamer are all paid in the shekel of the Sanctuary, which is calculated based on one hundred Tyrian dinars. The Gemara asks: **Why do I** need **this additional** mention of: All are paid in the shekel of the Sanctuary, which is calculated based on one hundred Tyrian dinars? The *tanna* of the mishna already **taught this** in **the first clause.**

אוֹנֵס וּמוֹצִיא שֵׁם רַע אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: כֵּיוָן דְּלָא כְּתִיב בְּהוּ שְׁקָלִים – אֵימָא זוּזֵי בְּעָלְמָא, קָא מַשְׁמַע לָן דְּמֵילְף קָא יָלְפִי מֵהֲדָדֵי.

The Gemara explains: It **was necessary** to state the cases of **the rapist and the defamer,** as it might **enter your mind to say: Since** the term **shekels is not written with regard to them,** but only "money," **say** that one pays **merely dinars,** and not shekels, which are worth four dinars. Therefore, the *tanna* **teaches us that** the *halakhot* of all these cases **are derived from one another,** and in all of them, the payment is in the shekel of the Sanctuary.

NOTES

An impaired dinar – זוּזָא מָאכָא: This is a coin whose image is rubbed out. Although strictly speaking it is considered a legally valid coin, many people refuse to accept it as payment. In a situation where there is no need to exchange it in order to receive smaller change, some individuals will accept it. This is the reason why Ḥanan the wicked was permitted to pay for the damage using this coin (Rashba on *Bava Kamma* 37a, and see *Baḥ* there).

BACKGROUND

Impaired dinar – זוּזָא מָאכָא: This term refers to a coin whose form has become eroded or damaged, either as a result of being beaten or simply due to prolonged use. While a coin's basic value was based on the value of the metal of which it was made, its worth was nevertheless greatly enhanced by its being stamped with a government seal attesting to the nature of the metal and its weight. Consequently, a coin whose imprint had worn away became suspect, as those not expert in such matters would be reluctant to accept it despite the fact that its nominal value remained the same.

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BACKGROUND

Half-shekel – מַחֲצִית הַשֶּׁקֶל: The half-shekel was an annual contribution to the Temple. All male Jews were required to contribute annually a half-shekel to the Temple before the first day of the Hebrew month of Nisan, which was the first day of the new Temple year. This money was used to cover the expenses of the Temple, which included buying communal offerings and paying for repairs, and maintaining and repairing the walls of Jerusalem. From the beginning of the month of Adar notice was served to the public that the half-shekel contributions would soon be due.

The exact value of the half-shekel changed several times over the course of the generations. Nowadays, toward the end of the Fast of Esther on the thirteenth of Adar, before the beginning of Purim, there is a custom to contribute to charity in commemoration of the half-shekel. The *halakhot* of the half-shekel contributions to the Temple are discussed in tractate *Shekalim*.



Shekel minted by bar Kokheva

LANGUAGE

Darics [*darbonot*] – דַּרְבּוֹנוֹת: The correct form of this term is probably *darkonot*, as it appears in *Shekalim* 2:1. It refers to a gold coin, and was first mentioned during the Persian era, at the time of the emigration of the Jews from Babylonia to Eretz Yisrael (see, e.g., Ezra 8:27). Some maintain that these coins were named after King Darius of Persia, while others contend that the *darkonot* mentioned in the mishna refer to the Greek coins Δαρεικός, *Dareikos*.

"חוּץ מִן הַשְּׁקָלִים". תָּנָא: חוּץ מִן הַשְּׁקָלִים וּמַעֲשֵׂר וְהָרְאָיוֹן.

§ The mishna further teaches: And all monetary obligations are redeemed, i.e., paid, with coins or with items of the equivalent value of money, **except for the** half-**shekels**[B] that are donated to the Temple each year, which must be given specifically as coins. The Gemara notes that it is **taught** in a *baraita*: All monetary obligations are redeemed with coins or with their equivalent value, **except for the** half-**shekels, and** second **tithe,**[H] **and the** money for **appearance,**[H] i.e., the two silver *ma'a* that every man must bring to the Temple to purchase burnt offerings of appearance on the pilgrimage Festivals, all of which must be given as coins.

שְׁקָלִים – דִּתְנַן: מְצָרְפִין שְׁקָלִים לְדַרְבּוֹנוֹת, מִפְּנֵי מַשָּׂאוֹי הַדֶּרֶךְ.

The Gemara elaborates: The *halakha* that the half-shekel payment dues to the Temple cannot be paid using items of equivalent value is **as we learned** in a mishna (*Shekalim* 2:1): When people who live far from Jerusalem wish to send to Jerusalem the shekels that have been levied from their community, **they** may **combine** their **shekels** and exchange them **for darics** [***darbonot***],[L] which are large gold coins, **due to** the hardship of **carrying on the journey.** Instead of carrying large amounts of shekels, the agents who deliver the funds will bring a much lighter burden of gold coins with them. They may exchange them only for coins, not for items of equivalent value.

מַעֲשֵׂר – דִּכְתִיב: "וְצַרְתָּ הַכֶּסֶף בְּיָדֶךָ". וְהָרְאָיוֹן – תָּנֵי רַב יוֹסֵף: שֶׁלֹּא יָבִיא סִיגָה לָעֲזָרָה.

Second **tithe** may not be redeemed with items of equivalent value, **as it is written: "And bind up** [***vetzarta***] **the money in your hand"** (Deuteronomy 14:25), which the Sages interpreted as referring to money that has a form [*tzura*] engraved on it, i.e., a coin. **And** with regard to **the** money for **appearance,** this is as **Rav Yosef teaches, that one may not bring** a lump of silver full of **base** metals **to the** Temple **courtyard.**

מתני' אֵין פּוֹדִין לֹא בַּעֲבָדִים וְלֹא בִּשְׁטָרוֹת וְלֹא בְּקַרְקָעוֹת וְלֹא בְּהֶקְדֵּשׁוֹת. כָּתַב לַכֹּהֵן שֶׁהוּא חַיָּיב לִיתֵּן חֲמִשָּׁה סְלָעִים – חַיָּיב לִיתֵּן לוֹ, וּבְנוֹ אֵינוֹ פָּדוּי. לְפִיכָךְ, אִם רָצָה הַכֹּהֵן לִיתֵּן לוֹ בְּמַתָּנָה – רַשַּׁאי.

MISHNA **One may not redeem** his firstborn son, **neither with** Canaanite **slaves,**[H] **nor with** promissory **notes, nor with land, nor with consecrated items.** If the father **wrote** a promissory note **to the priest**[H] **that he is obligated to give** him **five *sela*** coins, the father is **obligated to give** them **to him but his son is not redeemed. Therefore, if the priest wished to give** back the five *sela* coins **to him as a gift** he is **permitted** to do so.

הַמַּפְרִישׁ פִּדְיוֹן בְּנוֹ וְאָבַד – חַיָּיב בְּאַחֲרָיוּתוֹ, שֶׁנֶּאֱמַר: "יִהְיֶה לָךְ" וְ"פָדֹה תִפְדֶּה".

With regard to **one who designates** five *sela* coins for **redemption of his** firstborn **son and he lost** the coins[H] before he gave them to the priest, the father **bears** financial **responsibility for their** loss, **as it is stated** to Aaron the priest: "Everything that opens the womb in man and animal **shall be yours"; and** only afterward it says: "**You shall redeem** the firstborn of man" (Numbers 18:15). This indicates that only after the money shall be in the possession of the priest is the son redeemed.

HALAKHA

Redemption of second tithe – פִּדְיוֹן מַעֲשֵׂר שֵׁנִי: One may redeem second-tithe produce only with money. This money must be a coin that has a form or writing engraved on it. If he attempted to redeem the produce with a lump of silver and the like, his action is ineffective. This *halakha* is in accordance with the *baraita* and the mishna in tractate *Ma'aser Sheni* 1:2 (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser Sheni* 4:9).

The money for appearance – רְאָיוֹן: A man who ascends to Jerusalem for a pilgrimage Festival should bring for the burnt offerings of appearance either his own animals or money with which to purchase these offerings. He should not bring an item of equivalent value for this purpose, even if it is worth a large amount of gold. Why did the Sages prohibit using items of equivalent value for this purpose? It is a decree lest one will be unable to sell the items that he brought or to prevent him from bringing a lump of silver full of base metals to the Temple courtyard (Rambam *Sefer Korbanot*, *Hilkhot Ḥagiga* 1:3).

One may not redeem his firstborn son neither with slaves – אֵין פּוֹדִין לֹא בַּעֲבָדִים: A woman's firstborn son is redeemed with five *sela* coins or any item with that value that is movable and has intrinsic monetary value. One cannot use land, as it is not movable; or Canaanite slaves, which have the halakhic status of land; or a promissory note for money owed to him by others (*Shakh*), since it does not have intrinsic monetary worth. If one tries to redeem with these items, the redemption is not valid (Rambam, *Sefer Zera'im*, *Hilkhot Bikkurim* 11:6; *Shulḥan Arukh*, *Yoreh De'a* 305:3).

If the father wrote a promissory note to the priest, etc. – כָּתַב לַכֹּהֵן וכו': In a case where the father wrote a promissory note to the priest that he is obligated to give him five *sela* coins for the redemption of his son, the father is obligated to give him the money but his son is not redeemed (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:7; *Shulḥan Arukh*, *Yoreh De'a* 305:4).

One who designates five *sela* for redemption of his firstborn son and he lost the coins – הַמַּפְרִישׁ פִּדְיוֹן בְּנוֹ וְאָבַד: If one set aside five *sela* coins for redemption of his son and the money was lost before he gave it to a priest, the father bears financial responsibility to compensate the priest for it (*Shulḥan Arukh*, *Yoreh De'a* 305:9).

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גמ׳ מַתְנִיתִין דְּלָא כְּרַבִּי, דְּתַנְיָא, רַבִּי אוֹמֵר: בַּכֹּל פּוֹדִין בְּכוֹר אָדָם, חוּץ מִן הַשְּׁטָרוֹת. מַאי טַעֲמָא דְּרַבִּי?

GEMARA The Gemara comments: **The mishna is not in accordance with** the opinion of **Rabbi** Yehuda HaNasi. **As it is taught** in a *baraita* that **Rabbi** Yehuda HaNasi **says: One can redeem** a woman's **firstborn son with anything** worth five shekels **except for** promissory **notes.** This is different from the mishna, which also excludes Canaanite slaves and land. The Gemara asks: **What is the reason for Rabbi** Yehuda HaNasi's opinion?

דָּרֵישׁ רִיבּוּיֵי וּמִיעוּטֵי. ״וּפְדוּיָו מִבֶּן חֹדֶשׁ תִּפְדֶּה״ – רִיבָּה, ״בְּעֶרְכְּךָ כֶּסֶף חֲמֵשֶׁת שְׁקָלִים״ – מִיעֵט, ״תִּפְדֶּה״ – רִיבָּה;

The Gemara answers that **he interprets** verses using the method of **amplifications and restrictions,** and this is how he interprets the verse: "And its redemption from one month you shall redeem, according to the valuation of five silver shekels by the shekel of the Sanctuary" (Numbers 18:16). Concerning the phrase "**and its redemption from one month,**" since it does not specify that only certain items can be used for the redemption, the verse **amplified** the category of items that can be used to redeem the firstborn, intimating that many different items can be used. Then, with the phrase "**according to the valuation of five silver shekels,**" the verse **restricted** the category to items that are similar to silver shekels. Then, with the phrase "**You shall redeem,**" the verse **again amplified** the category.

רִיבָּה וּמִיעֵט וְרִיבָּה – רִיבָּה הַכֹּל, מַאי רַבִּי – רַבִּי כָּל מִילֵּי, וּמַאי מִיעֵט – מִיעֵט שְׁטָרוֹת.

According to the hermeneutical principle that when a verse **amplified and** then **restricted and** then **amplified, it amplified** the relevant category to include **everything** except the specific matter excluded in the restriction. The Gemara elaborates: **What** has **it amplified?** Almost **everything. And what** has **it restricted? It restricted** only promissory **notes,** which are the most fundamentally dissimilar to silver shekels.

וְרַבָּנַן דָּרְשִׁי כְּלָל וּפְרָט: ״וּפְדוּיָו מִבֶּן חֹדֶשׁ״ – כְּלָל, ״בְּעֶרְכְּךָ כֶּסֶף חֲמֵשֶׁת שְׁקָלִים״ – פְּרָט, ״פָּדֹה תִפְדֶּה״ – חָזַר וְכָלַל;

The Gemara explains the reasoning of the Rabbis: **And the Rabbis expound** verses through the method of **a generalization and a detail.**[N] They expound the verse as follows: The phrase "**and its redemption from one month**" is **a generalization** which suggests that many different items can be used to redeem the firstborn. Then, the phrase "**according to the valuation of five silver shekels**" is **a detail,** which suggests that only items that are similar to silver shekels can be used. Then, with the phrase: "**You shall redeem,**" the verse **again makes a generalization.**

כְּלָל וּפְרָט וּכְלָל – אִי אַתָּה דָּן אֶלָּא כְּעֵין הַפְּרָט, מָה הַפְּרָט מְפוֹרָשׁ – דָּבָר הַמִּטַּלְטֵל וְגוּפוֹ מָמוֹן, אַף כָּל דָּבָר הַמִּטַּלְטֵל וְגוּפוֹ מָמוֹן; יָצְאוּ קַרְקָעוֹת – שֶׁאֵין מִטַּלְטְלִין, יָצְאוּ עֲבָדִים – שֶׁהוּקְשׁוּ לְקַרְקָעוֹת, יָצְאוּ שְׁטָרוֹת, שֶׁאַף עַל פִּי שֶׁמִּטַּלְטְלִין – אֵין גּוּפָן מָמוֹן.

Based on this exegetical method, whenever a verse has **a generalization and** then **a detail and** then **a generalization,** the principle is that **you may deduce** that the verse is referring **only** to items that are **similar to the detail.** In this case, **just as the detail,** i.e., silver shekels, **is explicitly something that is movable and has intrinsic monetary** value, **so too, anything that is movable and has intrinsic monetary** value can be used. This **excludes land, which is not movable property;** it **excludes** Canaanite **slaves, who are** halakhically **compared to land;**[N] and it **excludes** promissory **notes,** because **even though they are movable property they do not have intrinsic monetary** value.

אֲמַר לֵיהּ רָבִינָא לְמֵימָר: וְרַבִּי רִיבּוּיֵי וּמִיעוּטֵי דָּרֵישׁ? וְהָא רַבִּי כְּלָלֵי וּפְרָטֵי דָּרֵישׁ בְּמַרְצֵעַ!

Ravina said to Ameimar: Does **Rabbi** Yehuda HaNasi really **expound** verses through the method of **amplifications and restrictions? But doesn't Rabbi** Yehuda HaNasi **expound** verses through the method of **generalizations and details with regard to an awl?**[B]

BACKGROUND

Awl – מַרְצֵעַ:



Ancient bronze awl from Cyprus

NOTES

Amplifications and restrictions…a generalization and a detail – רִיבּוּיֵי וּמִיעוּטֵי…כְּלָל וּפְרָט: These two hermeneutical methods, which are based on statements of early *tanna'im*, are both applied to the same verses, where the Torah describes a *halakha* by means of a broad phrase and by providing specific cases.

In the method of a generalization and a detail, each phrase is considered a clarification of the previous one. A broad phrase is taken as a general description of what is included in a certain category and the specific cases that follow are understood as clarifications of the generalization. Therefore, they serve to limit the category to the details mentioned. If the verse mentions another generalization, that is considered to be a further clarification that the details mentioned are merely examples of a principle, and therefore it teaches that any item that is similar to the details mentioned is also included in the category.

In the method of amplifications and restrictions, each phrase is not taken as a clarification of the previous phrase but serves to further expand or limit the extent of the category. Therefore, if there is an amplification followed by a restriction, the restriction limits the amplification to items that are similar to the cases mentioned. If the Torah then provides another amplification, it will serve to further expand the category to include all possible cases. In such a case the restriction's significance is severely limited and serves to exclude only a case that is fundamentally different from the specific cases mentioned.

Slaves, who are compared to land – עֲבָדִים שֶׁהוּקְשׁוּ לְקַרְקָעוֹת: This principle is based on a verse referring to Canaanite slaves: "And you shall make them an inheritance for your children after you" (Leviticus 25:46), which teaches that these slaves have the status of an ancestral inheritance. From here it is derived that Canaanite slaves have the halakhic status of property; see *Bava Kamma* 12b.

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BACKGROUND

Thorn of a palm [*sol*] – סוֹל: A similar term is mentioned in the Bible (Ezekiel 28:24). It refers to a thorn that grows on the fronds of the palm tree.



Thorn on a palm frond

Thorn – סִירָה: The *sira*, thorn, that is mentioned in the Bible is identified today with the thorny burnet, *Sarcopoterium spinosum*, of the Rosaceae family. A small bush 30–60 cm in height, it is tangled and thorny and is commonly found in the hilly areas north of Beersheba, covering large areas on the peripheries of groves and places where thickets are found. The plant has thorny leaves with distinctive bracts surrounding small reddish flowers.

HALAKHA

Just as an awl is distinct in that it is fashioned of metal – מַה מַּרְצֵעַ מְיוּחָד שֶׁל מַתֶּכֶת: In order for a Hebrew slave to remain a slave to his master after having completed his six years of servitude he must have his ear pierced. The procedure is done on the upper portion of his right ear using a metal tool. This is in accordance with the opinion of Rabbi Yehuda HaNasi (Rambam *Sefer Kinyan*, *Hilkhot Avadim* 3:9).

דְּתַנְיָא: ״מַרְצֵעַ״ אֵין לִי אֶלָּא מַרְצֵעַ, מִנַּיִן לְרַבּוֹת הַסּוֹל וְהַסִּירָא וְהַמַּחַט וְהַמַּקְדֵּחַ וְהַמַּכְתֵּב? תַּלְמוּד לוֹמַר: ״וְלָקַחְתָּ״ – לְרַבּוֹת כָּל דָּבָר שֶׁנִּלְקָח בַּיָּד, דִּבְרֵי רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה. רַבִּי אוֹמֵר: ״מַרְצֵעַ״ – מַה מַּרְצֵעַ מְיוּחָד – שֶׁל מַתֶּכֶת, אַף כָּל שֶׁל מַתֶּכֶת.

This is **as it is taught** in a *baraita*: The Torah provides the process by which a Hebrew slave who has already completed his six years of servitude may continue on as a slave of his master: "And you shall take the **awl** and put it through his ear and in the door" (Deuteronomy 15:17). From this verse, **I have** derived **only** that **an awl** can be used; **from where** do I know **to include the thorn of a palm,**[B] **and a thorn,**[B] **a needle, and a gimlet, and a stylus** for writing on wax, as valid tools for piercing his ear? **The verse states: "And you shall take,"** which indicates that **anything that can be taken by hand**[N] is a valid tool. This is **the statement of Rabbi Yosei, son of Rabbi Yehuda. Rabbi** Yehuda HaNasi **says:** Not all these items can be used. Rather, since the verse specifies an **"awl,"** only items similar to an awl can be used; **just as an awl is distinct** in that it is fashioned **of metal,**[H] **so too, anything** fashioned **of metal** can be used.

וְאָמְרִינַן: בְּמַאי קָא מִיפַּלְגִי – רַבִּי דָּרֵישׁ כְּלָלֵי וּפְרָטֵי, רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה דָּרֵישׁ רִיבּוּיֵי וּמִיעוּטֵי!

And we say with regard to this dispute: **About what do they disagree? Rabbi** Yehuda HaNasi **expounds** verses using the method of **generalizations and details, and Rabbi Yosei, son of Rabbi Yehuda, expounds** verses using the method of **amplifications and restrictions.**

אֵין, בְּעָלְמָא רַבִּי כְּלָלֵי וּפְרָטֵי דָּרֵישׁ, וְהָכָא – כִּדְתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל,

Ameimar answers: **Yes, generally** Rabbi Yehuda HaNasi **expounds** verses using the method of **generalizations and details, but here,** with regard to the redemption of the firstborn, **this is the reason** he expounds the verses using the method of amplifications and restrictions: He holds **in accordance with that which the school of Rabbi Yishmael taught.**

דְּתָנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: ״בַּמַּיִם״ ״בַּמַּיִם״ שְׁתֵּי פְעָמִים, אֵין זֶה כְּלָל וּפְרָט, אֶלָּא רִיבָּה וּמִיעֵט.

As the school of Rabbi Yishmael taught: When defining which fish it is permitted to eat, the verse states: "This you may eat, from whatever is in the water, anything that has fins and scales in the water, in the seas and in the streams" (Leviticus 11:9). The verse first states the general term **"in the water," "in the water,"** mentioning it **twice,** and only afterward mentions the details, i.e., "in the seas and in the streams." When the general and detailed phrases are ordered in this way, they **are not** expounded as **a generalization and a detail,** but **rather** the verse **amplified and restricted.**[N] Similarly, although Rabbi Yehuda HaNasi generally expounds verses using the method of generalizations and details, with regard to the redemption of the firstborn, since the verse mentions the two general terms first and mentions the specific detail only afterward, he expounds it using the method of amplifications and restrictions.

וְרַבָּנַן – אָמְרִי כִּדְאָמְרִינַן בְּמַעֲרָבָא: כָּל מָקוֹם שֶׁאַתָּה מוֹצֵא שְׁתֵּי כְּלָלוֹת הַסְמוּכִים זֶה לָזֶה – הַטֵּל פְּרָט בֵּינֵיהֶם וְדוּגֵם בִּכְלָל וּפְרָט.

The Gemara asks: **And** with regard to **the Rabbis,** why do they expound the verse about the redemption of a firstborn as a generalization and a detail? The Sages **say:** This is **like they say in the West,** Eretz Yisrael: **Wherever you find two generalizations juxtaposed to each other,** followed by a specific detail, **place** the **detail between** the two generalizations **and** thereby **expound them as a generalization and a detail** followed by another generalization.

״וְלֹא בְּהֶקְדֵּשׁוֹת״. פְּשִׁיטָא, לָאו דִּידֵיהּ נִינְהוּ! אֵימָא

§ The mishna teaches: **And** one may **not** redeem a firstborn **with consecrated items.** The Gemara asks: Isn't it **obvious?** Consecrated items **are not his.** The Gemara answers: **Say** that

NOTES

Anything that can be taken by hand – כָּל דָּבָר שֶׁנִּלְקָח בַּיָּד: The commentaries explain that even according to this opinion, i.e., that one may pierce a slave's ear with any item that can be held in the hand, whether it is made of wood or of any other material, one may not use an ointment for this purpose, as ointment cannot be held directly in one's hand but must be kept in a container (*Tosafot* on *Shevuot* 4b).

Amplified and restricted – רִיבָּה וּמִיעֵט: The amplification includes trenches and ditches, i.e., that water creatures found in them without fins and scales are prohibited. The restriction serves to exclude pits, ditches, and caves, which are bodies of still water, with regard to which water creatures found in them are permitted (see *Ḥullin* 67a).

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וְלֹא הֶקְדֵּשׁוֹת בְּכָל אֵלּוּ.

the mishna means: **Nor** may **consecrated items** be redeemed **with any of these**[H] items mentioned above, i.e., Canaanite slaves, documents, and land.

״כָּתַב לַכֹּהֵן שֶׁהוּא חַיָּיב לוֹ חֲמִשָּׁה סְלָעִים – חַיָּיב לִיתֵּן לוֹ״ כו׳. אָמַר עוּלָּא: דִּבְרֵי תּוֹרָה בְּנוֹ פָּדוּי; מַאי טַעֲמָא אֵין בְּנוֹ פָּדוּי – גְּזֵירָה שֶׁמָּא יֹאמְרוּ פּוֹדִין בִּשְׁטָר.

§ The mishna teaches: If the father of a firstborn son **wrote** a promissory note **to the priest that he is obligated to** give **him five** *sela* coins, the father is **obligated to give** them **to him** but his son is not redeemed. **Ulla says: By Torah law, his son is redeemed** when the father gives the money to the priest. If so, **what is the reason** the Sages said **his son is not redeemed?** It is a rabbinic **decree** that was enacted, **lest** people **say** that one may **redeem** a firstborn son **with** a promissory **note** that enables the priest to collect a debt from a third party. This is not effective, as the Torah requires redemption with actual money.

תָּנֵי תַּנָּא קַמֵּיהּ דְּרַב נַחְמָן: בְּנוֹ פָּדוּי לְכְשֶׁיִּתֵּן. אֲמַר לֵיהּ רַב נַחְמָן: זוֹ דִּבְרֵי רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה סְתִימְתָא, וְאָמְרִי לָהּ: זוֹ דִּבְרֵי רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן סְתִימְתָא; אֲבָל חֲכָמִים אוֹמְרִים: אֵין בְּנוֹ פָּדוּי. וְהִלְכְתָא: אֵין בְּנוֹ פָּדוּי.

A *tanna* taught a *baraita* **in the presence of Rav Naḥman: His son is redeemed when** the father **gives** the money. **Rav Naḥman said to him: This** *baraita* **is the statement of Rabbi Yosei, son of Rabbi Yehuda,** which was recorded as **unattributed.**[N] **And some say: This** *baraita* **is the statement of Rabbi Elazar, son of Rabbi Shimon,** which was recorded as **unattributed. But the Rabbis say his son is not redeemed.** The Gemara concludes: **And the *halakha*** is that **his son is not redeemed.**

״לְפִיכָךְ אִם רָצָה הַכֹּהֵן לִיתֵּן לוֹ בְּמַתָּנָה – רַשַּׁאי״. תָּנֵינָא לְהָא דְּתָנוּ רַבָּנַן: נָתְנוּ לַעֲשָׂרָה כֹּהֲנִים בְּבַת אַחַת – יָצָא, בָּזֶה אַחַר זֶה – יָצָא, נְטָלוֹ וְהֶחֱזִירוֹ לוֹ – יָצָא.

§ The mishna further teaches: **Therefore, if the priest wished to give** back the five *sela* coins **to him as a gift** he is **permitted** to do so. The Gemara comments: **We learn** in the mishna **that which the Sages taught** explicitly in a *baraita*: If the father **gave** the redemption money for his son **to ten priests all at once,**[H] i.e., he placed five *sela* coins in front of a group of ten priests, he has **fulfilled** his obligation. If he gave it to them **one after the other,** he has **fulfilled** his obligation. If a priest **took** the redemption money **and returned it to** the father, the father has **fulfilled** his obligation.

וְכָךְ הָיָה מִנְהָגוֹ שֶׁל רַבִּי טַרְפוֹן, שֶׁהָיָה נוֹטֵל וּמַחֲזִיר, וּכְשֶׁשָּׁמְעוּ חֲכָמִים בַּדָּבָר אָמְרוּ: קַיֵּים זֶה הֲלָכָה זוֹ. הֲלָכָה זוֹ וְתוּ לָא? אֶלָּא: קַיֵּים זֶה אַף הֲלָכָה זוֹ.

And this was the practice of Rabbi Tarfon,[P] a priest, **as he would take** the redemption money **and return it. And when the Sages heard of** this **matter they said: This** individual **has fulfilled this *halakha*.** The Gemara asks: Has he fulfilled only **this *halakha* and nothing more?** Certainly, Rabbi Tarfon fulfilled many *halakhot*. **Rather,** they meant: **This** individual **fulfilled even this *halakha*.**[N]

רַבִּי חֲנִינָא הֲוָה רָגִיל וְשָׁקֵיל וּמְהַדַּר, חַזְיֵיהּ לְהַהוּא גַּבְרָא דַּהֲוָה קָא אָזֵיל וְאָתֵי קַמֵּיהּ, אֲמַר לֵיהּ: לָא גְּמַרְתְּ וִיהִיבַת, מִידָּעַם בִּישׁ, הֵילְכָךְ אֵין בְּנוֹ פָּדוּי.

The Gemara relates that **Rabbi Ḥanina,**[P] a priest, **was accustomed** to **take** the redemption money **and return it.** On one occasion, **he saw that a certain man** from whom he had received the redemption money for his son **was passing to and fro before him,** to hint to Rabbi Ḥanina that he should return the money. Rabbi Ḥanina **said to him:** Evidently, **you did not conclusively** resolve to **give** the money. This is **a bad matter,** and **therefore his son is not redeemed.**

HALAKHA

Nor may consecrated items be redeemed with any of these – וְלֹא הֶקְדֵּשׁוֹת בְּכָל אֵלּוּ: One can redeem consecrated items only with money or items of equivalent value, but not with land, Canaanite slaves, or documents (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 7:1).

If he gave the redemption money to ten priests all at once – נְתָנוֹ לַעֲשָׂרָה כֹּהֲנִים בְּבַת אַחַת: If the father of a firstborn son gave the five *sela* coins to multiple priests his son is redeemed, whether he gave it to them all at once or one after the other, as stated in the *baraita*. The later commentaries disagree as to whether one may do so *ab initio* (Rambam *Sefer Zera'im*, *Hilkhot Bikkurim* 11:7; *Shulḥan Arukh*, *Yoreh De'a* 305:7, and see *Pitḥei Teshuva* there).

PERSONALITIES

Rabbi Tarfon – רַבִּי טַרְפוֹן: Rabbi Tarfon was one of the great *tanna'im* in the generation following the destruction of the Second Temple. Rabbi Tarfon was a priest, and although he was young in the days when the Temple still stood, it appears that he served there. It seems that he was the same age as the students of Rabbi Yoḥanan ben Zakkai and may have studied under him. He was also in close contact with many other Sages, including Rabbi Eliezer and Rabbi Yehoshua, who called him: Tarfon, my brother. In addition, he was often in the great academy of Yavne, engaged in Torah discussions with its important Sages. It is likely that he first served as a kind of teacher to Rabbi Akiva before becoming his colleague after Rabbi Akiva grew in stature. Rabbi Akiva and Rabbi Tarfon were regularly engaged in Torah discussions, and Rabbi Tarfon honored and esteemed him greatly. Several of the Sages of the next generation were disciples of Rabbi Tarfon's, with Rabbi Yehuda the chief among them.

Rabbi Ḥanina – רַבִּי חֲנִינָא: This is Rabbi Ḥanina bar Ḥama, a priest, who lived in the transitional generation between the *tanna'im* and *amora'im*. He was born in Babylonia but immigrated to Eretz Yisrael at a very young age, where he studied Torah under Rabbi Yehuda HaNasi. His teacher was very fond of him, saying that Rabbi Ḥanina was not a human being but an angel. Rabbi Ḥanina also studied under Rabbi Yehuda HaNasi's greatest students, in particular Rabbi Ḥiyya. At the time of his death, Rabbi Yehuda HaNasi appointed Rabbi Ḥanina as head of the yeshiva, but in his humility, Rabbi Ḥanina refused to accept the position during the lifetime of his older colleague, Rabbi Afes.

Rabbi Ḥanina lived in the city of Tzippori, where he dealt in the honey trade, and from which he grew wealthy. He used his money to build a large study hall. He was considered one of the cleverest scholars of his generation and was also renowned for his righteousness and kindness.

Rabbi Ḥanina's halakhic and aggadic statements abound in both the Jerusalem Talmud and the Babylonian Talmud. He enjoyed a long and healthy life and taught many students over several generations. Rabbi Yehoshua ben Levi was his student and colleague, and he was also privileged to teach Rabbi Yoḥanan for many years. The *amora* Rabbi Ḥama, son of Rabbi Ḥanina, was possibly his son.

NOTES

Unattributed – סְתִימְתָא: According to Rashi on *Ḥullin* 30a, this word is a reference to Rabbi Yosei, son of Rabbi Yehuda, or to Rabbi Elazar, son of Rabbi Shimon, as their opinions are frequently cited in the Mishna and in *baraitot* without attribution (see also 30a). Others explain that in the case of this particular *baraita*, the statement was issued without attribution (see Ritva on *Megilla* 2a).

This individual fulfilled even this *halakha* – קַיֵּים זֶה אַף הֲלָכָה זוֹ: One interpretation of this phrase is that which is used in the commentary, i.e., that he fulfilled this mitzva. Some commentaries explain, though, that the term: Fulfilled, in this context means that Rabbi Tarfon revealed this *halakha* to all (Rabbeinu Gershom Meor HaGola), or that he established this as the *halakha* for generations (*Shemen Roke'aḥ*).

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"הַמַּפְרִישׁ פִּדְיוֹן בְּנוֹ וְאָבַד – חַיָּיב בְּאַחֲרָיוּתוֹ". מְנָלַן? אָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ: אָתְיָא "עֶרֶךְ" "עֶרֶךְ" מֵעֲרָכִין.

§ The mishna teaches: With regard to **one who designates** five *sela* coins for **redemption of his son and he lost** the money before he gave it to the priest, the father **bears** financial **responsibility for its** loss. The Gemara asks: **From where do we** derive this? **Rabbi Shimon ben Lakish says:** It is **derived** by means of a verbal analogy between "**valuation" and "valuation," from** the passage discussing **valuations.**[N] With regard to a firstborn son it states: "From a month old you shall redeem, according to your valuation" (Numbers 18:16), and it is written with regard to valuations: "And he shall give your valuation on that day" (Leviticus 27:23). Just as one bears financial responsibility to pay for valuations, the same applies to redemption money.

רַב דִּימִי אָמַר רַבִּי יוֹנָתָן: "וְכֹל בְּכוֹר בָּנֶיךָ תִּפְדֶּה וְלֹא יֵרָאוּ פָנַי רֵיקָם", וְיָלִיף "רֵיקָם" "רֵיקָם" מֵעוֹלַת רְאָיֵיה, מָה עוֹלַת רְאָיֵיה חַיָּיב בְּאַחֲרָיוּתוֹ – אַף פִּדְיוֹן הַבֵּן חַיָּיב בְּאַחֲרָיוּתוֹ.

Rav Dimi says that **Rabbi Yonatan** says: The verse states concerning the redemption of the firstborn: "**And every firstborn of your sons you shall redeem, and none shall appear before Me empty**" (Exodus 34:20). **And** therefore this *halakha* is **derived** through a verbal analogy between "**empty**" and "**empty," from** the passage discussing **the burnt offering of appearance,** which every pilgrim must bring on a Festival. With regard to the burnt offering of appearance it states: "And none shall appear before Me empty" (Exodus 23:15). **Just as** in the case of the **burnt offering of appearance one bears** financial **responsibility** for the loss of the offering, **so too,** with regard to the **redemption of the firstborn one bears** financial **responsibility** for its loss as well.

מַתְקִיף לָהּ רַב פַּפָּא: קְרָא לִקְרָא? אֶלָּא אָמַר רַב פַּפָּא: הָא – כִּדְקָתָנֵי טַעֲמָא: "יִהְיֶה לָךְ אַךְ פָּדֹה תִפְדֶּה",

Rav Pappa objects to this: Is it necessary here to cite one **verse in** support of another **verse?** The mishna itself cites the verse that is the source of the *halakha* that the father bears financial responsibility for the redemption money. **Rather, Rav Pappa says:** The reason for **this** *halakha* is **the reason that** the mishna itself **teaches:** "Everything that opens the womb in man and animal **shall be yours; yet you shall redeem** the firstborn of man" (Numbers 18:15).

וְכִי אִיתְמַר דְּרֵישׁ לָקִישׁ – אַרֵישָׁא אִיתְמַר: מֵת לְאַחַר שְׁלֹשִׁים יוֹם, אַף עַל פִּי שֶׁלֹּא נָתַן – יִתֵּן. מְנָא לָן? אָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ: אָתְיָא "עֶרֶךְ" "עֶרֶךְ" מֵעֲרָכִין.

And when the comment **of Reish Lakish was stated,** it **was stated with regard to the first clause** of the mishna (49a), which teaches: If the firstborn son **dies after thirty days** have passed, **even if** the father **did not** yet **give** five *sela* coins to the priest **he must give** them then. **From where do we** derive this? **Rabbi Shimon ben Lakish says:** It is **derived** by means of a verbal analogy between "**valuation**" and "**valuation," from** the passage discussing **valuations.** Just as in a case where one says: It is incumbent upon me to donate so-and-so's valuation, he must do so even if that individual dies, so too, concerning the redemption of the firstborn the father must pay even though his son died.

רַב דִּימִי אָמַר רַבִּי יוֹנָתָן: "וְכֹל בְּכוֹר בָּנֶיךָ תִּפְדֶּה וְלֹא יֵרָאוּ פָנַי רֵיקָם", מַה לְהַלָּן יוֹרְשִׁין חַיָּיבִין – אַף כָּאן יוֹרְשִׁין חַיָּיבִין.

Rav Dimi says that **Rabbi Yonatan** says: It is written with regard to the redemption of the firstborn: "**And all the firstborn of your sons you shall redeem, and none shall appear before Me empty**" (Exodus 34:20), and it likewise states with regard to the burnt offering of appearance: "And none shall appear before Me empty" (Exodus 23:15). **Just as there,** in the case of the burnt offering of appearance, if one died after becoming obligated to bring the offering **the heirs are obligated** to bring his offering,[H] **so too here,** with regard to the redemption of the firstborn, if the obligation already took effect, and the son and the father then died, **the heirs are obligated** to give five *sela* coins to a priest.

מתני' הַבְּכוֹר נוֹטֵל פִּי שְׁנַיִם בִּנְכָסֵי הָאָב, וְאֵינוֹ נוֹטֵל פִּי שְׁנַיִם בִּנְכָסֵי הָאֵם. וְאֵינוֹ נוֹטֵל בַּשְּׁבָח, וְלֹא בָּרָאוּי כְּבַמּוּחָזָק.

MISHNA **The firstborn** son **takes a double** portion,[H] i.e., twice the portion taken by the other sons, **when** inheriting **the property of the father, but he does not take twice** the portion **when** inheriting **the property of the mother. And neither does he take** twice the portion **in** any **enhancement** of the value of the property[H] after the death of the father, **nor** does he take twice the portion **in** property **due** the father,[H] **as** he does **in** property the father **possessed.**

NOTES

It is derived by a verbal analogy between valuation and valuation, from valuations – אָתְיָא עֶרֶךְ עֶרֶךְ מֵעֲרָכִין: According to the Gemara (*Ḥullin* 139b), the *halakha* that one bears financial responsibility in the case of valuations is derived from the verse: "And he shall give your valuation on that day, as a holy item to the Lord" (Leviticus 27:23). This teaches that the item remains non-sacred until the day one gives it to the Temple treasurer, and only then does it become consecrated. Consequently, if it was lost beforehand one has not fulfilled his obligation.

HALAKHA

The heirs are obligated to bring his offering – יוֹרְשִׁין חַיָּיבִין: If one designated a burnt offering or a peace offering, including a firstborn offering, but died before he could sacrifice it, one of his heirs brings it with its libations and places his hands on the head of the offering (Rambam *Sefer Avoda*, *Hilkhot Ma'aseh HaKorbanot* 3:9).

The firstborn son takes a double portion – הַבְּכוֹר נוֹטֵל פִּי שְׁנַיִם: A firstborn son takes a double portion only from the property of the father but not from the property of the mother. Even if he is the firstborn of both the father and the mother, he takes only a standard portion of the mother's property, like the other sons (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 2:1, 8; *Shulḥan Arukh*, *Ḥoshen Mishpat* 278:1).

And neither does he take twice in any enhancement of the value of the property – וְאֵינוֹ נוֹטֵל בַּשְּׁבָח: If the property was enhanced after the father's death through transformation, e.g., unripe grain became full ears, or undeveloped dates became fully developed, the firstborn does not receive a double portion of the enhancement. Rather, the enhancement is appraised by the court, and the firstborn divides its value equally with his brothers. If the property was enhanced without transformation, e.g., a small tree grew larger, the firstborn is entitled to a double portion (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 3:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 278:6).

Nor does he take twice the portion in property due the father – וְלֹא בָּרָאוּי: A firstborn son does not collect a double portion from properties due the deceased after his death, but only from properties that were in his father's possession at the time of his death. Therefore, if the father's estate is due an inheritance from someone else after the father dies, the firstborn receives an equal share to that of his brothers. Likewise, if a debt was due the father and it was paid after his passing, the firstborn son receives an equal share of it along with his brothers (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 3:1; *Shulḥan Arukh*, *Ḥoshen Mishpat* 278:3).

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וְלֹא הָאִשָּׁה בִּכְתוּבָּתָהּ, וְלֹא הַבָּנוֹת בִּמְזוֹנוֹתֵיהֶן, וְלֹא אֶת הַיָּבָם, וְכוּלָּם אֵין נוֹטְלִין בַּשְּׁבָח וְלֹא בָּרְאוּי כְּבַמּוּחָזָק.

And neither does a woman take these portions, i.e., any enhancement of the value of the property or the property due the husband, from her husband's property **for** payment of **her marriage contract**[BH] upon her divorce or her husband's death; **nor** do **the daughters** take this share of the property **for their sustenance,**[H] to which they are entitled from their late father's possessions. **Nor** does **a man whose married brother died childless** [*yavam*][H] receive these portions, even though he acquires his brother's portion of their shared father's inheritance after performing levirate marriage with his brother's wife. The mishna summarizes: **And all of them do not take** a portion **in** any **enhancement** of the value of the property after the death of the owner, **nor** do they take a portion **in** property **due** the deceased, **as** they do in property **in** his **possession.**

גמ׳ מַאי טַעְמָא? אָמַר קְרָא: ״וְלוֹ מִשְׁפַּט הַבְּכוֹרָה״ – מִשְׁפַּט הַבְּכוֹרָה לָאִישׁ וְאֵין מִשְׁפַּט הַבְּכוֹרָה לָאִשָּׁה.

GEMARA The mishna teaches that the firstborn son does not receive a double portion when inheriting the property of his mother. The Gemara asks: **What is the reason?** The Gemara explains that **the verse states: "The law of primogeniture is his"** (Deuteronomy 21:17); this is understood to mean that there is **a law of primogeniture for a man,**[N] i.e., a duty to bequeath a double portion to his firstborn son, **and there is no law of primogeniture for a woman.**

״וְאֵינוֹ נוֹטֵל בַּשְּׁבָח״ – דִּכְתִיב: ״בְּכֹל אֲשֶׁר יִמָּצֵא לוֹ״. ״וְלֹא בָּרְאוּי כְּבַמּוּחָזָק״ – דִּכְתִיב: ״בְּכֹל אֲשֶׁר יִמָּצֵא לוֹ״.

The mishna teaches further: **And neither does he take** twice the portion **in** any **enhancement** of the value of the property after the death of his father. The Gemara explains that this is **because it is written:** "A double portion **of all that he has"** (Deuteronomy 21:17), and this enhancement was not in his father's possession at the time of his death. The mishna also teaches: **Nor** does he take twice the portion in property **due** the father, **as** he does in the property **in possession** of the father. The Gemara explains that this too is **because it is written: "Of all that he has"** (Deuteronomy 21:17), and property due the father is not in his possession.

BACKGROUND

Marriage contract – כְּתוּבָּה: A marriage contact is a document given by a husband to his wife upon their marriage, stating his obligations toward her during and after their marriage. The contract includes a lien on the husband's estate, which is to be paid if his wife is divorced or widowed. The minimum value of such a document is two hundred dinars for a virgin bride and one hundred dinars for other brides. The marriage contract also gives the marriage halakhic legitimacy. Without one, the couple's relationship is considered licentious. While the general guidelines for a marriage contract are given in tractate *Ketubot*, its particular provisions are often based on local custom. In addition, the marriage contract may include individual stipulations agreed to by the husband and wife. This contract has been an integral part of Jewish marriage throughout history, up until the present day.



Marriage contract from Venice, eighteenth century

NOTES

There is a law of primogeniture for a man, etc. – מִשְׁפַּט הַבְּכוֹרָה לָאִישׁ וכו׳: Although the straightforward interpretation of the verse is that the phrase "The law of primogeniture is his" refers to the firstborn, the Gemara interprets it here to refer to the father's duty to bequeath to his firstborn son a double portion rather than the right of the son to receive it.

HALAKHA

And neither does a woman take these portions for her marriage contract – וְלֹא הָאִשָּׁה בִּכְתוּבָּתָהּ: The main sum of a marriage contract and its additional sum cannot be claimed from the enhancement of the husband's property after his death, whether this enhancement was due to the efforts of the heirs or the purchasers from whom she seeks to seize it. The same applies to an enhancement that occurred by itself, e.g., if the value of the property appreciated or trees grew on the land (*Ḥelkat Meḥokek*). Likewise, she can claim only from property that was already in the husband's possession before he died, over which he maintained control. According to the Rambam's Commentary on the Mishna, she can claim her marriage contract even from the enhancement and from property that was due the husband; others, such as the Rosh, rule that she cannot (Rambam *Sefer Nashim*, *Hilkhot Ishut* 16:5 and *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 21:1; *Shulḥan Arukh*, *Even HaEzer* 100:2).

Nor do the daughters take this share of the property for their sustenance – וְלֹא הַבָּנוֹת בִּמְזוֹנוֹתֵיהֶן: The daughters are not entitled to sustenance from the enhancement of their father's property that occurred after he died. They may claim their sustenance only from property that was already in his possession before he died, over which he maintained control. According to the Rambam's Commentary on the Mishna, they can claim sustenance even from the enhancement; the Rosh disagrees (Rambam *Sefer Nashim*, *Hilkhot Ishut* 16:5 and *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 21:1; *Shulḥan Arukh*, *Even HaEzer* 100:2, and see *Ḥelkat Meḥokek* there).

Nor does a *yavam* – וְלֹא אֶת הַיָּבָם: One who performs levirate marriage receives the property of his deceased brother. This applies only to property in the brother's possession; with regard to property that came into his possession after his death, the *yavam* has only a share equal to those of the surviving brothers. Likewise, in a case where the father predeceased the brother, although the *yavam* receives two portions of his father's inheritance, his own and that of his late brother, this does not apply to any enhancement that occurs between the death of the father and the distribution of the inheritance. Even if the property became enhanced after the levirate marriage, but before the distribution of the inheritance, his right to the enhancement is the same as that of the rest of the brothers. The *halakha* is in accordance with the opinion of Rava (Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 3:7).

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NOTES

שִׁבָּח שֶׁשָּׁבְחוּ נְכָסִים בֵּין מִיתָה לְיִבּוּם – An enhancement by which the property was enhanced between the death of the brother and the levirate marriage: This is referring to the enhancement of the father's property, which the *yavam* receives together with his surviving brothers. By contrast, with regard to the late brother's property, which he does not share with his brothers, he is entitled to the enhancement as well (*Maggid Mishne* on Rambam *Sefer Mishpatim*, *Hilkhot Naḥalot* 3:7). Some of the later commentaries write that he is not entitled even to the enhancement of the late brother's property until the levirate marriage, as it has not yet been established that he will inherit him, and until it has been officially determined that he is the heir, the enhancement of the property belongs to all the brothers (*Avnei Nezer*, *Even HaEzer* 228).

"וְלֹא הָאִשָּׁה בִּכְתוּבָּתָהּ". אִינִי? וְהָאָמַר שְׁמוּאֵל: בַּעַל חוֹב גּוֹבֶה אֶת הַשִּׁבָּח! אָמַר רַבִּי אַבָּא: מְקוּלֵּי כְתוּבָּה שָׁנוּ כָּאן.

§ The mishna teaches: **And neither does a woman** take any enhancement of the value of the property or the property due the husband, from her husband's property **for** payment of **her marriage contract.** The Gemara asks: **Is that so? But doesn't Shmuel say a creditor collects** the value of **the enhancement** of the field of a borrower after the latter's death? Since a wife's marriage contract is like a promissory note, she is considered a creditor. **Rabbi Abba says:** The Sages **taught here** one **of the leniencies** for the husband that apply to **a marriage contract:** That a woman does not collect the value of the enhancement despite the fact that she is a creditor.

"וְלֹא הַבָּנוֹת בִּמְזוֹנוֹתֵיהֶן". מַאי טַעְמָא? תְּנַאי כְּתוּבָּה כִּכְתוּבָּה דָּמֵי.

The mishna teaches: **Nor** do **the daughters** take this share of the property **for their sustenance,** to which they are entitled from their late father's possessions. The Gemara asks: **What is the reason** for this? The Gemara explains that **a stipulation in the marriage contract,** such as that the daughters are entitled to sustenance from the father's property after his death, **is comparable to the marriage contract** itself, and therefore they cannot claim that which cannot be claimed from a marriage contract, i.e., an enhancement to the father's property.

"וְלֹא אֶת הַיָּבָם". מַאי טַעְמָא? "בְּכוֹר" קָרְייֵהּ רַחֲמָנָא. אָמַר אַבַּיֵי: לֹא שָׁנוּ אֶלָּא בִּשְׁבָח שֶׁשָּׁבְחוּ נְכָסִים בֵּין מִיתָה לְיִבּוּם, אֲבָל דְּבֵין יִבּוּם לַחֲלוּקָה – שָׁקִיל, מַאי טַעְמָא? "יָקוּם עַל שֵׁם אָחִיו הַמֵּת" אָמַר רַחֲמָנָא, וַהֲרֵי קָם.

The mishna teaches: **Nor** does **the *yavam*** receive these portions. The Gemara asks: **What is the reason** for this? The Gemara answers that **the Merciful One calls** the *yavam* **a firstborn,** in the verse: "And it shall be, the firstborn" (Deuteronomy 25:6). **Abaye says:** The Sages **taught** this *halakha* **only with regard to an enhancement by** which **the property** was **enhanced between the death** of the brother **and the levirate marriage.**[N] **But** concerning the enhancement **that** occurs **between the levirate marriage and the distribution** of the inheritance, **he does take** it. **What is the reason? The Merciful One states: "Shall succeed in the name of his brother who is dead"** (Deuteronomy 25:6), **and** by that stage **he has succeeded** him, and the enhancement occurred at that stage.

רָבָא אָמַר: אֲפִילּוּ דְּבֵין יִבּוּם לַחֲלוּקָה נַמִּי לָא שָׁקִיל; מַאי טַעְמָא? כִּבְכוֹר, מַה בְּכוֹר – אֵין לוֹ קוֹדֶם חֲלוּקָה, אַף יָבָם נַמִּי – אֵין לוֹ קוֹדֶם חֲלוּקָה.

Rava says: Even with regard to the enhancement that occurs **between the levirate marriage and the distribution** of the inheritance, the *yavam* **does not take** it. **What is the reason?** He is compared **to a firstborn: Just as a firstborn does not have** any special right to the inheritance **before** its **distribution, so too, a *yavam* does not have** any right to the inheritance **before** its **distribution.**

"וְכוּלָּם אֵין נוֹטְלִין בַּשִּׁבָּח".

The mishna teaches: **And all of them do not take** a portion **in** any **enhancement.**

Perek **VIII**
Daf **52** Amud **b**

לְאִיתוּיֵי שִׁבָּחָא דְּמִמֵּילָא, חֲפוּרָה וְהָווּ שׁוּבְלֵי, שַׁלְפוּפֵי וְהָווּ תַּמְרֵי.

The Gemara explains that this *halakha* is repeated in order **to include an enhancement that** occurs **by itself** after the death of the father or husband, for instance in a case when **fodder** [***ḥafura***],[L] i.e., produce that has grown stalks but is not yet ripe, **becomes full ears,** or when **date flowers** [***shalpufei***][L] **become** fully developed **dates.** Despite the fact that in such cases the property became enhanced by itself, without any effort on the part of the other brothers, the firstborn may not claim his double portion from that enhancement, and the same applies in the other cases mentioned in the mishna.

LANGUAGE

Fodder [*ḥafura*] – חֲפוּרָה: The exact derivation of this word is unknown. It is probably related to the Syriac word *ḥurfa*, which refers to a certain green plant whose produce is not yet fully ripe.

Date flowers [*shalpufei*] – שַׁלְפוּפֵי: Some associate this word with the root *shin*, *lamed*, *peh*, in the sense of growing and blooming (see Psalms 129:6). Here it refers to the flowers found on the dates when they begin to grow, or dates themselves that are still unripe.

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"וְלֹא בָּרָאוּי כְּבַמּוּחָזָק" – לְאֵיתוּיֵי נִכְסֵי דְּאֵבִי אַבָּא.

With regard to the repetition of the statement: **Nor** does he take twice the portion **in** property **due** the father **as** he does **in** property **in** his **possession,** this serves **to include property of the father's father,** in a case where the father died before his own father. The firstborn does not receive his portion in such property, despite the fact that it will certainly come into the father's possession, as this too is considered property that is due the father, not property in his possession. The same *halakha* applies also in the case of property due the wife, the daughters, or a *yavam*.

מתני' וְאֵלּוּ שֶׁאֵין חוֹזְרִין בַּיּוֹבֵל: הַבְּכוֹרָה, וְהַיּוֹרֵשׁ אֶת אִשְׁתּוֹ, וְהַמְיַבֵּם אֶת אֵשֶׁת אָחִיו;

MISHNA **And these** are the people **whose** properties, unlike an ancestral field, **do not return** to their original owners **in the Jubilee** Year:[B] The firstborn who inherited his father's property by the right of **primogeniture**[H] need not return the extra portion for redistribution among the brothers; **and one who inherits his wife's** property need not return it to her family; **and one who consummates the levirate marriage with the wife of his brother**[H] and gains the right to his brother's property need not return it for redistribution among the brothers.

וְהַמַּתָּנָה – דִּבְרֵי רַבִּי מֵאִיר, וַחֲכָמִים אוֹמְרִים: הַמַּתָּנָה כְּמֶכֶר. רַבִּי אֶלְעָזָר אוֹמֵר: כּוּלָּם חוֹזְרִין בַּיּוֹבֵל. רַבִּי יוֹחָנָן בֶּן בְּרוֹקָה אוֹמֵר: אַף הַיּוֹרֵשׁ אֶת אִשְׁתּוֹ יַחֲזִיר לִבְנֵי מִשְׁפָּחָה, וְינַכֶּה מֵהֶן אֶת הַדָּמִים.

And likewise, **a gift**[H] of land need not be returned to the original owners in the Jubilee Year; this is **the statement of Rabbi Meir. And the Rabbis say:** The halakhic status of **a gift** is **like** that of **a sale,** and it must be returned. **Rabbi Elazar says: All these** lands **return in the Jubilee** Year. **Rabbi Yoḥanan ben Beroka says: Even one who inherits his wife's** property **must return** the land **to the members of** her father's **family and should deduct from them the monetary** value of the land, as the Gemara will explain.

גמ' מַאי טַעְמָא דְּרַבִּי מֵאִיר? מָכָר הוּא דְּאָמַר רַחֲמָנָא לִיהַדַּר בַּיּוֹבֵל, מַתָּנָה וִירוּשָׁה – לָא, וְהָנֵי מִירוּשָׁה – יְרוּשָׁה, דְּמַתָּנָה – מַתָּנָה; בְּכוֹר – "לָתֵת לוֹ פִּי שְׁנַיִם", מַתָּנָה קָרְיֵיהּ רַחֲמָנָא,

GEMARA The Gemara asks: **What is the reason of Rabbi Meir,** who holds that none of these items return in the Jubilee Year? The Gemara answers: **It is** with regard to land acquired specifically by means of **a sale that the Merciful One states** that it **should be returned during the Jubilee** Year (see Leviticus 25:28), whereas **a gift and an inheritance** are **not** returned. **And these** cases listed in the mishna that are derived **from** the *halakha* of **an inheritance** have the status of **an inheritance, and those** that are derived **from a gift** have the status of **a gift.** The Gemara elaborates: With regard to **a firstborn,** it is stated: "**By giving him a double portion**" (Deuteronomy 21:17); here **the Merciful One calls** the portion of a firstborn **a gift,** an item that is given.

וְהַיּוֹרֵשׁ אֶת אִשְׁתּוֹ – יְרוּשַׁת הַבַּעַל דְּאוֹרַיְיתָא, וְהַמְיַבֵּם אֶת אֵשֶׁת אָחִיו – "בְּכוֹר" קָרְיֵיהּ רַחֲמָנָא.

And one who inherits his wife's property need not return it to her family in the Jubilee Year, as Rabbi Meir maintains that **the inheritance of a husband**[H] is **by Torah law,** not a rabbinic enactment, and land acquired through inheritance is not returned. **And** likewise, **one who consummates the levirate marriage with the wife of his brother** need not return the brother's property for redistribution among the brothers. This is because **the Merciful One calls** the *yavam* **a firstborn,** in the verse: "And it shall be, the firstborn" (Deuteronomy 25:6), and Rabbi Meir holds that the portion of the firstborn is not returned in the Jubilee Year, as explained earlier.

"וַחֲכָמִים אוֹמְרִים מַתָּנָה כְּמֶכֶר". מַאי טַעְמַיְיהוּ דְּרַבָּנַן? "תָּשֻׁבוּ" – לְרַבּוֹת אֶת הַמַּתָּנָה,

The mishna further teaches: **And the Rabbis say:** The halakhic status of **a gift** is **like** that of **a sale,** and must be returned. The Gemara asks: **What is the reason of the Rabbis?** The Gemara answers that the term "**you shall return**" in the verse: "In the Jubilee Year you shall return every man to his possession" (Leviticus 25:13), is superfluous, as it is already stated: "It shall be a Jubilee for you, and you shall return every man to his possession" (Leviticus 25:10). Therefore, this term serves **to include a gift,** which is also returned in the Jubilee Year.

וְהָנֵי כּוּלְּהוּ יְרוּשָׁה נִינְהוּ;

And these other cases listed in the mishna **are all** considered as **an inheritance,** and consequently they are not returned in the Jubilee Year. With regard to the husband's inheritance of his wife's property, the Rabbis, like Rabbi Meir, maintain that it applies by Torah law, and they agree that the *yavam* is considered like a firstborn with respect to his portion.

BACKGROUND

Jubilee Year – יוֹבֵל: The fiftieth year, which follows seven Sabbatical cycles of seven years, has a unique status. All the agricultural *halakhot* that are followed in the Sabbatical Year must be observed in the Jubilee Year as well. In addition, all Hebrew slaves, including those who agreed to continue in servitude beyond their initial obligation, are freed, and fields that have been sold are returned to their original owners (see Leviticus, chapter 25); both of these events occur after Yom Kippur. On Yom Kippur of that year special prayers are recited and the *shofar* is sounded in a manner similar to the ritual of Rosh HaShana. The Jubilee Year is observed only when the majority of the Jewish people are living in Eretz Yisrael. Consequently, its observance was discontinued during the First Temple period and has not yet been renewed.

HALAKHA

The right of primogeniture – הַבְּכוֹרָה: A firstborn is obligated to return his additional portion in the Jubilee Year, and he receives a new additional portion. This is in accordance with the opinion of Rabbi Meir and the Rabbis (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:20).

One who consummates the levirate marriage with the wife of his brother – הַמְיַבֵּם אֶת אֵשֶׁת אָחִיו: One who consummates the levirate marriage with the wife of his brother and takes his brother's portion of the inheritance of their father must return it in the Jubilee Year for redistribution among the brothers, and he receives a new portion (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:20).

A gift – הַמַּתָּנָה: If one gives a field as a gift to another, the field returns to the original owner in the Jubilee Year, in accordance with the opinion of the Rabbis (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:19).

The inheritance of a husband – יְרוּשַׁת הַבַּעַל: A husband who inherits land from his wife need not return it to her family in the Jubilee Year. Although the *halakha* that a husband inherits his wife is by rabbinic law, the Sages reinforced this ordinance, giving it the same status as Torah law (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:21 and *Sefer Nashim*, *Hilkhot Ishut* 12:3).

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בְּכוֹר – אָמַר קְרָא: ״לָתֵת לוֹ פִּי שְׁנַיִם״, מַקִּישׁ חֵלֶק בְּכוֹרָה לְחֵלֶק פָּשׁוּט, מַה חֵלֶק פָּשׁוּט – יְרוּשָׁה, אַף חֵלֶק בְּכוֹרָה – יְרוּשָׁה.

As for **a firstborn, the verse states: "By giving him a double portion"** (Deuteronomy 21:17), and the Rabbis disagree with Rabbi Meir, who derives from this verse that the portion of the firstborn has the status of a gift. Rather, they maintain that the verse **juxtaposes the** extra **portion of the firstborn to the portion** he receives as **an ordinary** brother: **Just as the portion** of **an ordinary** brother is not redistributed among the brothers in the Jubilee Year, but rather is **an inheritance,** as it is stated: "On the day that he causes his sons to inherit" (Deuteronomy 21:16), **so too the portion of the firstborn** is **an inheritance,** and is not returned in the Jubilee Year.

״רַבִּי אֶלְעָזָר אוֹמֵר כּוּלָּם חוֹזְרִים בַּיּוֹבֵל״. סָבַר לָהּ כְּרַבָּנַן דְּאָמְרִי: ״תָּשׁוּבוּ״ – לְרַבּוֹת אֶת הַמַּתָּנָה, וְהֵנִי כּוּלְּהוּ מַתָּנָה נִינְהוּ; בְּכוֹר – ״לָתֵת לוֹ פִּי שְׁנַיִם״, מַתָּנָה קְרֵייהּ רַחֲמָנָא.

The mishna further teaches that **Rabbi Elazar says: All these** lands **return in the Jubilee** Year. The Gemara explains that Rabbi Elazar **holds in accordance with** the opinion of **the Rabbis, who say** that the term "**you shall return**" serves **to include a gift, and** he further maintains that **these** cases listed in the mishna **are all** considered **gifts.** The Gemara elaborates: With regard to **a firstborn** it is stated: "**By giving him a double portion.**" Through the use of the term "giving," **the Merciful One calls** his portion **a gift.**

וְהַיּוֹרֵשׁ אֶת אִשְׁתּוֹ – יְרוּשַׁת הַבַּעַל דְּרַבָּנַן, וְהַמְיַבֵּם אֶת אֵשֶׁת אָחִיו – ״בְּכוֹר״ קְרֵייהּ רַחֲמָנָא.

And with regard to **one who inherits his wife's** property, Rabbi Elazar maintains that **the inheritance of a husband** is **by rabbinic law,** and therefore it does not have the status of an inheritance that does not return in the Jubilee Year. **And** finally, **one who consummates the levirate marriage with the wife of his brother** returns the property for redistribution among the brothers, as **the Merciful One calls** him **a firstborn,** and Rabbi Elazar rules that the portion of the firstborn is returned in the Jubilee Year.

אָמַר רַבִּי אַסִי אָמַר רַבִּי יוֹחָנָן: הָאַחִין שֶׁחָלְקוּ – לָקוֹחוֹת הֵן, וּמַחֲזִירִין זֶה לָזֶה בַּיּוֹבֵל. מוֹתִיב רַב הוֹשַׁעְיָא: וְאִלּוּ שֶׁאֵין חוֹזְרִין בַּיּוֹבֵל: הַבְּכוֹרָה!

§ **Rabbi Asi says** that **Rabbi Yoḥanan says: Brothers who divided** property[H] received as an inheritance **are** considered **purchasers** from each other, i.e., one does not say they each received the exact inheritance to which they were entitled. **And** as purchasers of land, **they must return** the portions **to each other in the Jubilee** Year, at which point they redistribute the property. **Rav Hoshaya raises an objection** from the mishna: **And these** are the people **whose** properties **do not return** to their original owners **in the Jubilee** Year: The firstborn who inherited his father's property by **the** right of **primogeniture.**

אָמַר לֵיהּ רַבִּי אֶלְעָזָר: מַאי ״אֵין חוֹזְרִין״ – אֵין חוֹזְרִין לְבַטָּלָה. מַתְקִיף לָהּ רַב שֵׁשֶׁת: מִכְּלָל דְּמַאן דְּאָמַר חוֹזְרִין – חוֹזְרִין לְבַטָּלָה קָאָמַר?

Rabbi Elazar said to Rav Hoshaya: **What** is the meaning of the clause: **They do not return?** It means that **they do not return for naught,** i.e., the firstborn does not forfeit the double portion; rather, when they redistribute the property he again receives a double portion. **Rav Sheshet**[P] **objects to this: By inference** from this answer, should one conclude **that the one who says** the portion of the firstborn **returns** in the Jubilee Year **is saying** that **it returns for naught?** Why should the firstborn lose his double portion?

קָרֵי רַב חָמָא עֲלֵיהּ דְּרַב שֵׁשֶׁת: ״טוֹבָה חָכְמָה עִם נַחֲלָה״; וְלָא שְׁמִיעַ לְהוּ הָא, דְּכִי אָתֵי רָבִין אָמַר רַבִּי יוֹחָנָן, וְאָמְרִי לָהּ רַבִּי אֶלְעָזָר אָמַר מְשׁוּם רַבִּי אֶלְעָזָר בֶּן שַׁמּוּעַ: מַאי ״חוֹזְרִין״ – חוֹזְרִין לְבַטָּלָה.

Rav Ḥama read the verse **about Rav Sheshet: "Wisdom is good with an inheritance"** (Ecclesiastes 7:11),[N] i.e., it is not enough to inherit knowledge of *baraitot*, as does Rav Sheshet; rather, one must also be expert in the wisdom of *amora'im*. Rav Ḥama explained: **Didn't** Rav Sheshet **hear this** matter, **that when Ravin came** from Eretz Yisrael to Babylonia, **he said** that **Rabbi Yoḥanan** says, **and some say** that **Rabbi Elazar said** it **in the name of Rabbi Elazar ben Shammua,** who is the *tanna* Rabbi Elazar in the mishna: **What** is the meaning of the clause: **They return** in the Jubilee Year? It means that **they return for naught,**[N] and they forfeit that which they received.

PERSONALITIES

Rav Sheshet – רַב שֵׁשֶׁת: A prominent third-generation Babylonian *amora*, Rav Sheshet was a preeminent disciple of Rav Huna, although he also studied under other Sages of the generation.

Rav Sheshet was famous in his generation for his unsurpassed expertise in *baraitot*. Due to his comprehensive familiarity with even the most obscure areas of Oral Law, he was nicknamed Sinai. Many of the Sages of the generation came to study with him, primarily because it was assumed that his statements were invariably based on early sources.

In his later years Rav Sheshet became blind, but he remained knowledgeable in all aspects of life and was a frequent visitor to the house of the Exilarch. He was a forceful personage who did not defer even to highly distinguished individuals. Rav Sheshet appears to have supported himself as a garment merchant and lived comfortably from his earnings.

In most of Rav Sheshet's disputes with his colleagues, especially Rav Naḥman, that deal with forbidden items, the *halakha* is decided in accordance with his opinion. Rav Sheshet had no sons, but he had one daughter and several grandchildren.

NOTES

Rav Ḥama read the verse about Rav Sheshet: Wisdom is good with an inheritance – קָרֵי רַב חָמָא עֲלֵיהּ דְּרַב שֵׁשֶׁת טוֹבָה חָכְמָה עִם נַחֲלָה: Rashi explains that the term "inheritance" is a reference to Rav Sheshet's knowledge of *baraitot*, while the word "wisdom" is interpreted as referring to Ravin's statement, which Rav Sheshet had not heard. Rav Ḥama is therefore saying that although broad knowledge is good, it is even better when accompanied with incisive comments. Others suggest Rav Ḥama is alluding to the continuation of the verse: "A profit to them who see the sun," as Rav Sheshet was blind, on account of which Rabbi Ze'eiri was concerned for the accuracy of his statements (Jerusalem Talmud, *Shekalim* 2:5 and *Ohel Moshe*). Yet others maintain that Rav Ḥama was actually praising Rav Sheshet, in that he possessed sharpness of mind as well as broad knowledge. According to this last explanation, the continuation of the Gemara, which indicates that Rav Sheshet's claim is incorrect, is an addition of the Gemara, which rejects both Rav Sheshet's opinion and Rav Ḥama's praise (Rabbeinu Gershom Meor HaGola).

They return for naught – חוֹזְרִין לְבַטָּלָה: Rashi and Rabbeinu Gershom Meor HaGola indicate that according to the opinion of Rabbi Elazar, the entire first distribution of the father's property is negated, and all the brothers must divide up their father's inheritance again, with the firstborn and the rest of the brothers receiving an equal share. The reason is that the extra portion of the firstborn has the status of a gift, and like any gift it must be returned in the Jubilee Year (*Malbushei Yom Tov*, *Bereira* 16). Others maintain that only the initial distribution of land is negated, but each of the brothers retains his right to the amount of his original share, which means that now too the firstborn receives a double portion (Mahari Kurkus on Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:20).

HALAKHA

Brothers who divided property – הָאַחִין שֶׁחָלְקוּ: Brothers who divided their father's inheritance are considered like purchasers, and therefore are obligated to return their portions to the common estate in the Jubilee Year. They need not divide the property again, and instead they may exchange their shares (Mahari Kurkus). This *halakha* is in accordance with the opinion of Rabbi Yoḥanan (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:20).

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״רַבִּי יוֹחָנָן בֶּן בְּרוֹקָה אוֹמֵר: אַף הַיּוֹרֵשׁ אֶת אִשְׁתּוֹ יַחֲזִיר לִבְנֵי״ וכו׳. מַאי קָסָבַר? אִי קָסָבַר יְרוּשַׁת הַבַּעַל דְּאוֹרַיְיתָא – אַמַּאי יַחֲזִיר לִבְנֵי מִשְׁפָּחָה? וְאִי קָסָבַר יְרוּשַׁת הַבַּעַל דְּרַבָּנַן – דָּמִים מַאי עֲבִידְתַּיְיהוּ?

§ The mishna teaches that **Rabbi Yoḥanan ben Beroka says: Even one who inherits his wife's** property **must return** the land **to the members of** her father's family[N] and should deduct from them the monetary value of the land. The Gemara asks: **What does** Rabbi Yoḥanan ben Beroka **hold? If he holds** that **the inheritance of a husband** is **by Torah law, why must he return** the property **to the members of** his wife's **family?** An inheritance by Torah law is not given back in the Jubilee Year. **And if he holds** that **the inheritance of a husband** is **by rabbinic law, what is the purpose of the money** he receives from his wife's relatives? Since the property belongs to them, they should not have to pay him anything.

לְעוֹלָם קָסָבַר יְרוּשַׁת הַבַּעַל דְּאוֹרַיְיתָא, וְהָכָא בְּמַאי עָסְקִינַן – כְּגוֹן שֶׁהוֹרִישַׁתּוּ אִשְׁתּוֹ בֵּית הַקְּבָרוֹת, וּמִשּׁוּם פְּגַם מִשְׁפָּחָה אָמוּר רַבָּנַן לִשְׁקוֹל דָּמֵי וְלִיהֲדַר.

The Gemara answers: **Actually,** Rabbi Yoḥanan ben Beroka **holds** that **the inheritance of a husband** is **by Torah law, and what are we dealing with here?** We are dealing with a case **where his wife bequeathed to him** her family's **graveyard.**[H] **And due to** the need to avoid **a family flaw,**[N] i.e., harm to the family name, if the wife's family would be buried in plots belonging to others, **the Sages said he should take money** from them **and return** the graveyard.

וְכִדְתַנְיָא: הַמּוֹכֵר קִבְרוֹ וְדֶרֶךְ קִבְרוֹ, מְקוֹם מַעֲמָדוֹ, וּבֵית הֶסְפֵּדוֹ – בָּאִים בְּנֵי מִשְׁפָּחָה וְקוֹבְרִים אוֹתוֹ בְּעַל כָּרְחוֹ, מִשּׁוּם פְּגַם מִשְׁפָּחָה. וּמַאי ״יְנֻכָּה לָהֶם מִן הַדָּמִים״? דְּמֵי קֶבֶר אִשְׁתּוֹ.

And this is **as it is taught** in a *baraita* discussing *halakhot* connected with burial that serve to uphold family honor: In the case of **one who sells his grave,**[H] **or the path** to **his grave,** or **the place** where visitors would **stand** to comfort the mourners,[N] **or the place of his eulogies, the members of** his **family may come and bury him** in his ancestral plot **against** the purchaser's **wishes, due to** the need to avoid **a family flaw,** i.e., harm to the family name. **And what** is the meaning of the clause: **And deduct for them** part **of the monetary** value of the property? It means that he must deduct **the monetary** value **of his wife's grave** from the value of the field, as a husband is obligated to pay for his wife's burial (see *Ketubot* 47b).

הדרן עלך יש בכור

HALAKHA

Where his wife bequeathed to him her family's graveyard – שֶׁהוֹרִישַׁתּוּ אִשְׁתּוֹ בֵּית הַקְּבָרוֹת: If a husband inherited a graveyard from his wife he must return it to her family in the Jubilee Year, due to the need to avoid a family flaw. Although they must pay him for it, they may deduct the value of his wife's burial plot from the value of the field, as the husband is obligated to pay for her burial (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:21).

One who sells his grave – הַמּוֹכֵר קִבְרוֹ: If someone sold his grave, or the path to his grave, or the place where visitors would stand to comfort the mourners, or the place where eulogies were recited, his family members may come and bury him in his ancestral plot against the purchaser's wishes, and refund the purchaser's money (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 24:17; *Shulḥan Arukh*, *Ḥoshen Mishpat* 217:7 and *Yoreh De'a* 366:1).

NOTES

Must return the land to the members of her father's family – יַחֲזִיר לִבְנֵי מִשְׁפָּחָה: Rashi on *Ketubot* 84a explains that he returns it in the Jubilee Year. Some early commentaries claim the text of the mishna itself includes the explicit clause: Must return the land in the Jubilee Year (Ritva on *Ketubot* 84a). Others disagree, claiming the *baraita* cited here, which addresses one who sells his grave, applies even in the present time, when there is no Jubilee Year (Rivan and Meiri on *Ketubot* 84a). Still others maintain that this *baraita* is indeed referring to the Jubilee Year, as the concern for a family flaw applies only when all the lands are returned except for this one, since then it is conspicuous that their family is buried in the plot of another (*Tosafot* on *Ketubot* 84a).

Family flaw – פְּגַם מִשְׁפָּחָה: Rashi on *Ketubot* 84a explains that it is shameful for them to be buried in a burial plot belonging to others. Alternatively, the flaw is that strangers are buried in a plot that was set aside for them (Rivan and Meiri on *Ketubot* 84a).

The place where visitors would stand to comfort the mourners – מְקוֹם מַעֲמָדוֹ: The commentaries explain that upon their return from the burial, the mourners would stand, then walk a little, before again sitting somewhere else. They would repeat this procedure seven times (Rashbam on *Bava Batra* 100b). The Rashbam offers three explanations for this practice: In order for people accompanying the mourners to be able to comfort them; in order to arouse feelings of sadness and crying; and in order to provide an opportunity for reflection on the vanity of life in this world. In line with this last explanation, some commentaries write that each time they would stand or sit they would recite verses such as: "Vanity of vanities" (Ecclesiastes 1:2). Others explain that the mourners would stand before their relatives, who would recite lamentations before them; and afterward the mourners would sit down and the relatives would recite words of both comfort and rebuke (Meiri), and they would then stand up again and the process would be repeated (see Rambam *Sefer Shofetim*, *Hilkhot Evel* 12:5).

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Summary of **Perek VIII**

With regard to the *halakha* of redemption of the firstborn, a firstborn is defined as a male who was the first child born to an Israelite woman, specifically one who "opens the womb" (Exodus 13:2), i.e., is born via a natural birth. Consequently, a son born following a miscarriage is not a firstborn, as he did not open the womb. If the miscarriage occurred in the very early stages of development of the fetus, the son born afterward is a firstborn with regard to redemption. With regard to a son born by caesarean section, he is not a firstborn with regard to redemption, as he did not open the womb, but the one who follows him is not the firstborn either, as he is not the first child born to his mother.

It is further derived from the phrase "whatever opens the womb among the children of Israel" that only a son who opens his mother's womb when she is a Jew is classified as the firstborn. Therefore, if a woman had given birth when she was a gentile and subsequently gave birth to a male after her conversion, that son is not a firstborn. Conversely, if a woman was pregnant when she was a gentile, and converted before giving birth for the first time to a son, he is considered a firstborn.

Although the definition of a firstborn is determined based on the opening of the womb, nevertheless, all firstborn members of the tribe of Levi, including Levites and priests, are exempt from the obligation of redemption. Moreover, even a firstborn son born to the daughter of a priest or the daughter of a Levite who married an Israelite is exempt from redemption. The reason for this is that the firstborn is determined based on the opening of the womb, which relates to the female; consequently, her status as a Levite also exempts her son from the obligation.

The mitzva of the redemption of the firstborn applies once the son is one month old, and it is concluded that the obligation does not take effect until following the thirtieth day. If one redeemed his son at a younger age, and the son then died before he reached the age of a month, the priest must return the redemption money to the father. If the father gave five silver shekel coins to a priest within thirty days on the condition that his son should be redeemed at the appropriate time, he is redeemed after thirty days. Nevertheless, since most people do not redeem their sons before thirty days from the birth, if the father died within thirty days it is presumed that he did not perform the redemption and his son is obligated to redeem himself. Conversely, there is an assumption that a father will generally redeem his son when the time arrives, and therefore if the father died after thirty days the presumption is that the son was redeemed.

The mitzva of redemption applies primarily to the father, but if he neglected to perform it the son must redeem himself. If that son fathered a firstborn before he himself was redeemed, his own redemption takes precedence over that of his son,

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as a mitzva that pertains to one's own body precedes a mitzva he must perform with regard to someone else.

The five silver shekels that must be given to a priest for the redemption of a firstborn son are calculated according to the value of the shekel of the Sanctuary, each of which weighs twenty *gera*, as stated in the Torah. This weight is in refined silver, similar to the Tyrian coinage in the period of the Mishna, and the Sages of the Gemara evaluated these shekels according to the weight and value of the coins of their time. Just as the redemption of the firstborn must be given in Tyrian coinage, the same applies to the other set payments in the Torah, such as the fine of fifty shekels paid by a rapist and by a seducer. By contrast, a fine imposed by the Sages is calculated based on provincial coinage, which is worth one-eighth of Tyrian coinage.

One may redeem his son not only with money but also with items of equivalent value, provided the item used is movable and has intrinsic monetary value. Therefore, land, which is not movable, Canaanite slaves, which are compared to land, and promissory notes, which do not have intrinsic monetary value, may not be used.

The priest is permitted to return to the father the five *sela* that he received, and this has been the custom of many priests over the generations. The Sages insisted that the father must fully intend to give over the money to the priest; otherwise, his son is not redeemed.

The firstborn who is entitled to a double share in his father's inheritance is one who is "the first of his strength" (Deuteronomy 21:17). Unlike the case of the redemption of the firstborn, which depends on the opening of the womb, one who follows a miscarriage is considered a firstborn with regard to inheritance. Nevertheless, if the head of the one born first emerged while he was still alive, even if he subsequently died, the following son is not the firstborn, as the first child is considered one whom the father would "recognize" (Deuteronomy 21:17). A convert who fathered sons when he was a gentile does not have a firstborn son for inheritance, even if he later had a son when he was a Jew, as that son is not called "the first of his strength."

The Sages derived from the phrase: "Of all that he has" (Deuteronomy 21:17), that the firstborn receives a double portion only in that which was in his father's possession at the time of his death. He does not take a double portion in any enhancement of the value of the property after the death of the father, nor does he take a double portion in property due the father that was not actually in the father's possession, such as a loan that was due him. The Sages add that these principles also apply to property that a *yavam* inherits from his late brother, as well as the right of a woman to her husband's property as payment for her marriage contract, and the right of the daughters to their sustenance from his estate.

The last part of the chapter dealt with another aspect of the inheritance of a firstborn, which is that his double portion is not considered like a sold field and therefore does not return in the Jubilee Year for redistribution among all the brothers. Although the Sages stated that brothers who divided their father's inheritance are obligated to return their portions to the common estate in the Jubilee Year, this means they must return it, but the firstborn does not forfeit his extra portion. Incidental to this *halakha*, the chapter enumerated which items are returned in the Jubilee Year.

Many cases of uncertainty were analyzed in the chapter, both with regard to the right of a priest to the redemption money of the son and the right of the firstborn to a double portion of his father's inheritance. The guiding principle is that the burden of

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proof rests on the claimant, and therefore in most situations of uncertainty neither the priest nor the firstborn may take what they maintain is theirs. Nevertheless, there are certain instances where a priest is entitled to the redemption money notwithstanding the uncertainty, and likewise there are cases where people can authorize each other to claim a debt, if it is certain that at least one of them is definitely entitled to it.

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Introduction to **Perek IX**

And all the tithe of the herd or the flock, whatever passes under the rod, the tenth shall be sacred to the Lord.

(Leviticus 27:32)

And you shall bring there your burnt offerings, and your offerings, and your tithes, and the offering of your hand, and your vows, and your gift offerings, and the firstborn of your herd and of your flock.

(Deuteronomy 12:6)

This chapter is dedicated to the *halakhot* of animal tithe. It appears in this tractate because there are many similarities between the *halakhot* of a firstborn animal and those of animal tithe. The basic *halakha* of animal tithe is that one must separate one tenth of his newborn animals from his flocks and herds, and sacrifice that tenth in Jerusalem. If the tithed animal is blemished it may be eaten by its owner in any location.

The previous chapters examined the status of animal tithe after it has been separated, with regard to how it must be eaten or sold, and with regard to an individual's trustworthiness in identifying a blemish in the animal. This chapter will discuss the obligation to tithe and the procedure for separating the tithe.

The animal tithe is mentioned in the Torah alongside the second tithe separated from produce. This juxtaposition raises the question of the similarities between the two. Is animal tithe, like tithe from produce, separated only in Eretz Yisrael? Is its separation dependent on the existence of the Temple, i.e., is it separated only at a time when it can be sacrificed? Does the prohibition against separating from one type for another also apply to animal tithe? Furthermore, are the remaining animals all prohibited to their owner until the tithe has been separated, as is the case with untithed produce?

Other relevant issues include the time of year when one is required to separate animal tithe. May animals born in one year be tithed on behalf of animals born in another year, or must each year's animals be tithed separately, as is the case with regard to tithe of grain, i.e., produce in general?

The Torah's description of "whatever passes under the rod" indicates that the animals must all be gathered together in a single pen. Yet, since animals move about and scatter, it must be established whether this is an absolute requirement. If not, are there limits to the distance at which animals can be considered a single unit for the purpose of animal tithe?

Likewise, the Gemara will discuss when the obligation to separate animal tithe applies. Are there categories of owners or animals that are exempt?

With regard to the manner of separating animal tithe, must it be performed as stated by the Torah: "Whatever passes under the rod," or is the Torah simply describing the most common scenario for separating the tithe? Is the tenth animal automatically sanctified as it passes under the rod, or must one explicitly declare it the tithe? In the case of one who has less than ten animals, or only slightly more, how should he proceed?

The manner of tithing described in the Torah, where the animals are placed in a pen and come out singly, can lead to many cases of uncertainty. Occasionally, the

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owner might mistakenly designate the ninth animal, or the eleventh, as the tenth. Furthermore, animals could emerge from the pen two at a time. What is the status of the animals in such instances?

These are the major topics that will be explored in this chapter.

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מתני׳ מַעְשֵׂר בְּהֵמָה נוֹהֵג בָּאָרֶץ וּבְחוּצָה לָאָרֶץ, בִּפְנֵי הַבַּיִת וְשֶׁלֹּא בִּפְנֵי הַבַּיִת, בַּחוּלִין אֲבָל לֹא בַּמֻּקְדָּשִׁין. וְנוֹהֵג בַּבָּקָר וּבַצֹּאן, וְאֵינָן מִתְעַשְּׂרִים מִזֶּה עַל זֶה. בַּכְּבָשִׂים וּבָעִזִּים, וּמִתְעַשְּׂרִין מִזֶּה עַל זֶה.

MISHNA

The mitzva of **animal tithe is in effect** both **in Eretz** Yisrael[H] **and outside of Eretz** Yisrael, **in the presence of,** i.e., in the time of, **the Temple and not in the presence of the Temple.** It is in effect **with regard to non-sacred** animals **but not with regard to sacrificial** animals. **And it is in effect with regard to the herd and the flock, but they are not tithed from one for the other;**[H] and it is in effect **with regard to sheep and goats, and they are tithed from one for the other.**[H]

בֻּחָדָשׁ וּבְיָשָׁן – וְאֵינָן מִתְעַשְּׂרִין מִזֶּה עַל זֶה. שֶׁהָיָה בַּדִּין: וּמָה אִם הֶחָדָשׁ וְהַיָּשָׁן שֶׁאֵינָן כִּלְאַיִם זֶה בְּזֶה – אֵינָם מִתְעַשְּׂרִין מִזֶּה עַל זֶה, כְּבָשִׂים וְעִזִּים שֶׁהֵן כִּלְאַיִם זֶה בְּזֶה – אֵינוֹ דִּין שֶׁלֹּא יְהוּ מִתְעַשְּׂרִין מִזֶּה עַל זֶה? תַּלְמוּד לוֹמַר: ״וְצֹאן״ – מַשְׁמַע כָּל צֹאן אֶחָד.

And it is in effect **with regard to** animals from **the new** flock **and with regard to** animals from **the old** flock,[H] **but they are not tithed from one for the other. As by right, it should be** inferred: **If** in the case of animals from the **new** flock **and the old** flock, **which do not** carry the prohibition of mating **diverse kinds** when mated **with each other** because they are one species, **are** nevertheless **not tithed from one for the other,** then with regard to **sheep and goats, which do** carry the prohibition of mating **diverse kinds** when mated **with each other, is it not right that they will not be tithed from one for the other?** Therefore, **the verse states:** "And all the tithe of the herd **or the flock,** whatever passes under the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32), indicating that with regard to animal tithe, **all** animals that are included in the term **flock** are **one** species.

גמ׳ לֵימָא מַתְנִיתִין דְּלָא כְּרַבִּי עֲקִיבָא? דְּתַנְיָא, רַבִּי עֲקִיבָא אוֹמֵר: יָכוֹל יַעֲלֶה אָדָם מַעְשַׂר בְּהֵמָה מֵחוּצָה לָאָרֶץ וְיַקְרִיבֶנּוּ? תַּלְמוּד לוֹמַר: ״וְהַבֵּאתֶם שָׁמָּה עֹלֹתֵיכֶם וְזִבְחֵיכֶם וְאֵת מַעְשְׂרֹתֵיכֶם״

GEMARA

The mishna teaches that the mitzva of animal tithe is in effect both in Eretz Yisrael and outside of Eretz Yisrael. The Gemara suggests: **Let us say that the mishna is not in accordance with** the opinion of **Rabbi Akiva. As it is taught** in a *baraita* that **Rabbi Akiva says:** One **might** have thought that **a person** must **bring up** his **animal tithe from outside of Eretz** Yisrael **and sacrifice it** in the Temple. Therefore, **the verse states: "And you shall bring there your burnt offerings, and your offerings, and your tithes,** and the offering of your hand, and your vows, and your gift offerings, and the firstborn of your herd and of your flock" (Deuteronomy 12:6).

בִּשְׁתֵּי מַעֲשְׂרוֹת הַכָּתוּב מְדַבֵּר, אֶחָד מַעְשַׂר בְּהֵמָה וְאֶחָד מַעְשַׂר דָּגָן, מִמָּקוֹם שֶׁאַתָּה מַעֲלֶה מַעְשַׂר דָּגָן – אַתָּה מַעֲלֶה מַעְשַׂר בְּהֵמָה, וּמִמָּקוֹם שֶׁאִי אַתָּה מַעֲלֶה מַעְשַׂר דָּגָן – אִי אַתָּה מַעֲלֶה מַעְשַׂר בְּהֵמָה!

Rabbi Akiva explains: The plural form "tithes" indicates that **the verse is speaking of two tithes; one** is the **animal tithe, and** the other **one** is the second **tithe of grain,** i.e., produce. Since these two tithes are included in the same word, it is derived from here that **from the place where you bring up** the **tithe of grain,** i.e., Eretz Yisrael, as the obligation to separate tithe of grain applies only there, **you** also **bring up** the **animal tithe; but from a place where you do not bring up** the **tithe of grain,** i.e., outside of Eretz Yisrael, **you do not bring up** the **animal tithe** either. This *baraita*, which states the opinion of Rabbi Akiva, apparently contradicts the ruling of the mishna.

אֲפִילּוּ תֵּימָא רַבִּי עֲקִיבָא, כָּאן – לִיקָּרֵב, כָּאן – לִיקָּדֵשׁ. דַּיְקָא נָמִי, דְּקָא נָסֵיב לָהּ תַּלְמוּדָא: ״וְהַבֵּאתֶם שָׁמָּה״, שְׁמַע מִינָּהּ.

The Gemara responds: **You** may **even say** that the mishna is in accordance with the opinion of **Rabbi Akiva,** as the *baraita* and the mishna are referring to different cases. The *baraita* **there** is referring to the requirement to bring the animal tithe to Jerusalem for it **to be sacrificed** on the altar. By contrast, the mishna **here** is speaking of the status of every tenth animal; these animals are **to be** separated and **consecrated.**[N] The Gemara adds that the language of the *baraita* **is also precise,** as it **adduces a derivation** from the phrase **"and you shall bring there." Conclude from** this citation that the *baraita* is referring specifically to the requirement to bring the animal tithe and sacrifice it in Jerusalem.

HALAKHA

Animal tithe is in effect in Eretz Yisrael, etc. – מַעְשַׂר בְּהֵמָה נוֹהֵג בָּאָרֶץ וכו׳: The mitzva of the animal tithe is in effect both in Eretz Yisrael and outside of Eretz Yisrael, when the Temple exists and when the Temple does not exist. It applies to non-sacred animals but not to sacrificial animals (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:2).

With regard to the herd and the flock but they are not tithed from one for the other – בַּבָּקָר וּבַצֹּאן וְאֵינָן מִתְעַשְּׂרִים מִזֶּה עַל זֶה: The mitzva of animal tithe is in effect only with regard to cattle, sheep, and goats. Cattle may not be tithed together with sheep and goats, nor may sheep and goats be tithed together with cattle (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:4).

With regard to sheep and goats and they are tithed from one for the other – בַּכְּבָשִׂים וּבָעִזִּים וּמִתְעַשְּׂרִין מִזֶּה עַל זֶה: Sheep and goats may be tithed together (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:4).

With regard to the new flock and with regard to the old flock – בֻּחָדָשׁ וּבְיָשָׁן: One may not tithe animals born in one year together with animals born in a different year. The Rambam is inclined to rule that if one did separate tithe from old and new animals together, the act of tithing takes effect (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:5).

NOTES

There to be sacrificed, here to be consecrated – כָּאן לִיקָּרֵב כָּאן לִיקָּדֵשׁ: Rabbi Akiva holds that it is prohibited to sacrifice animal tithes that were consecrated outside of Eretz Yisrael (*Temura* 21a). By contrast, the mishna there, which is in accordance with the opinion of Rabbi Yishmael, states that although one should not bring animal tithes from outside of Eretz Yisrael to the Temple *ab initio*, if they were brought they are sacrificed in the Temple.

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אִי הָכִי, מֵאַחַר שֶׁאֵינוֹ קָרֵב אַמַּאי קָדוֹשׁ? לְמֵאֲכַל בְּמוּמוֹ לַבְּעָלִים.

The Gemara asks: **If so, since** animal tithe outside of Eretz Yisrael **is not sacrificed** on the altar, **why is it consecrated?** What is the significance of its sanctity? The Gemara answers that it is consecrated **to** the extent that it may **be eaten by its owner** only **when** it develops **a blemish.**

"בִּפְנֵי הַבַּיִת וְשֶׁלֹּא בִּפְנֵי הַבַּיִת". אִי הָכִי, אֲפִילּוּ הָאִידָּנָא נַמִּי! כִּדְרַב הוּנָא, דְּאָמַר רַב הוּנָא: גְּזֵירָה מִשּׁוּם יָתוֹם.

§ The mishna teaches that the animal tithe is in effect both **in the presence of the Temple and not in the presence of the Temple.** The Gemara challenges: **If so,** then **even nowadays** the *halakha* of the animal tithe should be in effect. Why then do people not remove every tenth animal from their flock or herd? The Gemara answers: The reason is **in accordance with** the opinion **of Rav Huna, as Rav Huna says:** This is a rabbinic **decree**[N] **due to an orphan,**[N] i.e., a baby animal whose mother died before it was born, lest it be included with the other animals to be tithed; the obligation of animal tithe does not apply to it.

אִי הָכִי, מֵעִיקָּרָא נַמִּי לָא! אֶלָּא – אֲפִשָּׁר בְּהַכְרָזָה; הָכָא נַמִּי – אֲפִשָּׁר בְּהַכְרָזָה!

The Gemara challenges: **If so,** then even **originally,** when the Temple stood, the practice should have **also** been **not** to separate animal tithe in case an orphaned animal was included in the counting. **Rather,** the Gemara explains that there was no concern for an orphaned animal when the Temple stood, as it was **possible** to remove this concern **by** issuing **an announcement** to everyone that an orphaned animal is exempt from animal tithe. The Gemara suggests: **Here too,** it is **possible** to remove the concern **by** means of **an announcement** that an orphaned animal is exempt from animal tithe.

אֶלָּא אָמַר רַבָּה: מִשּׁוּם תַּקָּלָה. וּמְנָא תֵּימְרָא דְּחָיְישִׁינַן לְתַקָּלָה? דְּתָנַן: אֵין מַקְדִּישִׁין, וְאֵין מַעֲרִיכִין, וְאֵין מַחֲרִימִין בַּזְּמַן הַזֶּה,

Rather, Rabba says: The reason animal tithe is no longer separated is **due to** concern that **a mishap**[H] might occur. **And from where do you say that we are concerned for a mishap** after the destruction of the Temple? **As we learned** in a *baraita*: **One may neither consecrate** items,[H] **nor valuate** an item's worth based on its appraisal, **nor dedicate** items for sacred use (see Leviticus, chapter 27) and dedicate its monetary worth to the Temple treasury, **in the present** time, when the Temple is no longer standing.

וְאִם הִקְדִּישׁ וְהֶעֱרִיךְ וְהֶחֱרִים, בְּהֵמָה – תֵּיעָקֵר, פֵּירוֹת כְּסוּת וְכֵלִים – יֵרָקְבוּ, מָעוֹת וּכְלֵי מַתָּכוֹת – יוֹלִיךְ לְיַם הַמֶּלַח; וְאֵיזֶהוּ עִיקּוּר – נוֹעֵל דֶּלֶת בְּפָנֶיהָ וְהִיא מֵתָה מֵאֵילֶיהָ.

The *baraita* continues: **And if one did consecrate, or valuate, or dedicate** items for sacred use, the presence of these items might lead to the mishap of the violation of the prohibition against using consecrated property. Therefore, if one dedicated **an animal it should be destroyed.** If he dedicated **produce, garments, or vessels** made from materials that decompose, he should store them until **they decompose.** And if he dedicated **money or metal vessels, he should take them** and cast them **into the Dead Sea.**[B] The Gemara adds: **And** in the case of an animal, **what** constitutes **uprooting? He locks the door before it, and it dies on its own** from hunger. This *baraita* indicates that animals that cannot be sacrificed nowadays must be left to die so that they are not used improperly.

NOTES

Nowadays…rabbinic decree, etc. – הָאִידָּנָא...גְּזֵירָה וכו': Although this decree nullifies a mitzva that is written in the Torah, the Sages have the authority to uproot such mitzvot by instructing one to remain passive (see *Yevamot* 90a). *Tosefot Yom Tov* adds that in this case the Sages can nullify the mitzva because the flock is not rendered prohibited if tithe is not removed from it. Consequently, it differs from the mitzvot of separating the portion of the produce designated for the priest [*teruma*] and tithes from crops, where in addition to the mitzva of separating, it is prohibited to eat untithed produce (see 57b–58a).

A rabbinic decree due to an orphan – גְּזֵירָה מִשּׁוּם יָתוֹם: Rashi notes that this is referring not only to an orphan but to any of the various categories of animals that are not tithed, such as a *tereifa*, i.e., an animal with a wound that will cause it to die within twelve months, or an animal that is born from two diverse kinds. The reason Rav Huna specifies an orphan is due to the context of the discussion in which he issued his statement (see 58b).

BACKGROUND

Dead Sea – יַם הַמֶּלַח: This literally means: The salt sea, and it sometimes refers to any saltwater sea, as opposed to a freshwater lake. It usually refers specifically to the Dead Sea, also called the Sea of Sodom in talmudic sources. Any item from which it is prohibited to derive benefit is thrown into the Dead Sea, since there are no fishermen or others who will come to retrieve items thrown there. The reason for this *halakha* may be that due to the high density of salt in the Dead Sea, items thrown into it will become rusty and decay in a short period of time, after which they will no longer be usable.



Tire corroded by salt at the Dead Sea

HALAKHA

Due to a mishap – מִשּׁוּם תַּקָּלָה: Technically, the mitzva of animal tithe applies both when the Temple is standing and when it is not standing. Nevertheless, the Sages prohibited the separation of animal tithe nowadays, decreeing that one may separate them only when the Temple is standing, due to concern that a mishap might occur, i.e., one might slaughter the consecrated animal before it develops a blemish. This would be forbidden, as it is prohibited to slaughter sacrificial animals outside the Temple, and one who does so is liable to receive the punishment of excision from the World-to-Come [*karet*]. If one did separate the animal tithe nowadays, it has sanctity and may be eaten only after it has developed a blemish (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:2).

One may neither consecrate items, etc. – אֵין מַקְדִּישִׁין וכו': The acts of consecrating items, taking valuation vows, or dedicating items for the use of the priests or the Temple are not performed nowadays when there is no Temple. Nevertheless, if one did consecrate, or evaluate, or dedicate items for sacred use, in the case of an animal he must lock it up until it dies on its own. With regard to produce or articles of clothing they must be left to rot. In the case of money or metal vessels they must be thrown into the Dead Sea or the Mediterranean Sea. All of this applies if the owner does not want to redeem the item; but if he does choose to redeem it, he can do so with one *peruta*, and he throws that one *peruta* into the Dead Sea instead. The Sages decreed that one should redeem the item with four dinars, or an amount close to this sum, in order to publicize the event. The Rema writes (see *Shakh*) that if one consecrates items for use in the Temple nowadays, his vow should be annulled (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 8:8–9; *Shulḥan Arukh*, *Yoreh De'a* 258:1).

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אִי הָכִי, בִּכּוֹר נַמִּי לָא לִיקַדַּשׁ! בִּכּוֹר בְּדִידַן תַּלְיָא מִילְּתָא? בָּרֶחֶם קָדוֹשׁ! הָכִי קָאָמַר: לִיקְנְיָנְהוּ לְאוּדְנֵיהוּ לְגוֹיִם, דְּלָא לִיקַדֵּשׁ מֵעִיקָּרָא!

The Gemara challenges: **If so,** then **a firstborn should also not be consecrated,** as this too could lead to a mishap. The Gemara responds: Does the **matter** of the consecration of **a firstborn depend on us?** The animal is automatically **consecrated upon** its exit from **the womb.**[H] The Gemara answers that **this** is what the questioner **is saying: Let us sell the ears** of all firstborn animals **to gentiles** before their births, so **that they are not consecrated from the outset.** A firstborn animal that is jointly owned by a Jew and a gentile does not become consecrated as a firstborn.

HALAKHA

Consecrated upon its exit from the womb – בָּרֶחֶם קָדוֹשׁ: It is a mitzva to consecrate a firstborn animal by saying: This is sanctified, even if the animal is blemished. If one does not sanctify the animal it is nevertheless consecrated as it leaves the womb, in accordance with the opinion of the Rabbis (*Arakhin* 29a). The Rosh maintains that one is not required to consecrate a firstborn, in accordance with the opinion of Rabbi Yishmael in *Arakhin* 29a (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 1:4, and see *Leḥem Mishne* and *Mishne LaMelekh* there; *Shulḥan Arukh*, *Yoreh De'a* 306:1, and see *Beur HaGra* there).

Perek **IX**
Daf **53** Amud **b**

אֶפְשָׁר כִּדְרַב יְהוּדָה, דְּאָמַר רַב יְהוּדָה: מוּתָּר לוֹ לְאָדָם לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא לָאֲוִיר הָעוֹלָם. הָכָא נַמִּי, אֶפְשָׁר דְּשָׁדֵי בֵּיהּ מוּמָא מֵעִיקָּרָא!

The Gemara explains that it is **possible** to act in a different manner, so that the priest does not lose out on his rights to the firstborn animal. One can act **in accordance with** the opinion **of Rabbi Yehuda, as Rabbi Yehuda says:** It is **permitted for a person to inflict a blemish upon a firstborn** animal fetus **before it emerges**[H] **into the air of the world.** The Gemara challenges: If so, **here too, it is possible** for one **to inflict a blemish from the outset,** before the animal becomes consecrated as the tithed animal.

HALAKHA

It is permitted for a person to inflict a blemish upon a firstborn fetus before it emerges – מוּתָּר לוֹ לְאָדָם לְהַטִּיל מוּם בִּבְכוֹר קוֹדֶם שֶׁיֵּצֵא: It is permitted in the present time to inflict a blemish on a firstborn animal before its head and the majority of its body emerge from its mother (*Shakh*). This *halakha* is in accordance with the opinion of Rav Yehuda. It was prohibited to do so when the Temple was standing (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:14; *Shulḥan Arukh*, *Yoreh De'a* 313:7).

מִי יָדַע הֵי נָפֵיק? וְכִי תֵּימָא: דְּמַפֵּיק לֵיהּ בְּרֵישׁ עֲשָׂרָה – "לֹא יְבַקֵּר בֵּין טוֹב לָרַע" אֲמַר רַחֲמָנָא!

The Gemara answers: **How** can one **know which** animal will **emerge** as the tenth? Since it is impossible to know this, one cannot inflict a blemish on the animal before it becomes consecrated. **And if you would say that** one should **bring out** the animal upon which he has inflicted the blemish **at the head of** the **ten** animals to ensure that it will be the tithed animal, this is not a valid option, as **the Merciful One states: "He shall not inquire whether it be good or bad"** (Leviticus 27:33). This means one may not plan in advance which animal will be the tenth.

וְכִי תֵּימָא: אֶפְשָׁר דְּשָׁדֵי בֵּיהּ מוּמָא בְּכוּלֵּי עָדְרֵיהּ – מְהֵרָה יִבָּנֶה בֵּית הַמִּקְדָּשׁ, וּבָעֵינַן בְּהֵמָה לְהַקְרָבָה וְלֵיכָּא.

And if you would say it is possible to inflict a blemish on the entire herd of animals and thereby ensure the tenth one will be blemished, that is also undesirable. The reason is that **soon the Temple will be rebuilt and we** will **require animals for offerings, and** there will be **none** remaining without a blemish.

הָכִי נַמִּי, בִּבְכוֹר בְּהֵמָה – מְהֵרָה יִבָּנֶה בֵּית הַמִּקְדָּשׁ, וּבָעֵינַן בְּהֵמָה לְהַקְרָבָה וְלֵיכָּא. אֶפְשָׁר בִּפְשׁוּטִין.

The Gemara asks: But **here too, with regard to a firstborn animal,** why not also say that **soon the Temple will be rebuilt and we** will **require animals for offerings and** there will be **none** remaining without a blemish? The Gemara answers: It is **possible** to bring the offerings **from ordinary** animals that are not firstborns.

הָכָא נַמִּי, אֶפְשָׁר בִּלְקוּחִין! כֵּיוָן דְּאִיהוּ שָׁדֵי בֵּיהּ מוּמָא בְּכוּלֵּי עָדְרֵיהּ, וּשְׁכִיחִי מוּמֵי דְּפִסְילִי בְּקָדָשִׁים, דַּאֲפִילּוּ דּוּקִין שֶׁבָּעַיִן נַמִּי פָּסְלִי – לָא שְׁכִיחִי.

The Gemara challenges: **Here too,** with regard to the animal tithe, **it is possible** to bring the offerings **from** animals **purchased** from another person, which are exempt from animal tithe, as taught in the mishna on 55b. The Gemara answers: **Since** anyone who has animals **inflicts a blemish on all of** the animals in **his herd** to avoid consecrating the tithe, there will be very few unblemished animals available for purchase. **And** furthermore, **blemishes that disqualify sacrificial** animals **are common, as even** if the blemish is small, e.g., **on the** animal's **eyelid, it disqualifies** the animal from being used for sacrifice. Therefore, it will **not** be **common** to find animals fit to be used as offerings. For this reason the Sages decreed that one should not tithe his animals in the present time.

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"בַּחוּלִּין אֲבָל לֹא בַּמּוּקְדָּשִׁין". מוּקְדָּשִׁין פְּשִׁיטָא, לָאו דִּידֵיהּ נִינְהוּ!

§ The mishna teaches that the mitzva of animal tithe is in effect **with regard to non-sacred** animals **but not with regard to sacrificial** animals. The Gemara raises a difficulty: It is **obvious** that the mitzva to tithe is not in effect with regard to **sacrificial** animals, as **they are not his.** Since sacrificial animals have been dedicated to the Temple, of course the owner cannot subsequently consecrate them.

בְּקָדָשִׁים קַלִּים, וְאַלִּיבָּא דְּרַבִּי יוֹסֵי הַגְּלִילִי, דְּאָמַר: קָדָשִׁים קַלִּים – מָמוֹן בְּעָלִים הֵם, דְּתַנְיָא: "וּמָעֲלָה מַעַל בַּה'" – לְרַבּוֹת קָדָשִׁים קַלִּים שֶׁהֵן מָמוֹן בְּעָלִים, דִּבְרֵי רַבִּי יוֹסֵי הַגְּלִילִי; סְלָקָא דַּעְתָּךְ אָמִינָא לִיעַשְּׂרוּ, קָא מַשְׁמַע לָן.

The Gemara answers: The mishna is referring **to offerings of lesser sanctity,**[B] e.g., peace offerings, **and** it is **in accordance with** the opinion **of Rabbi Yosei HaGelili, who says: Offerings of lesser sanctity are the monetary property of their owners,** and therefore the owner can consecrate them. **As it is taught** in a *baraita* with regard to the guilt offering of a robber who takes a false oath, that the verse: "**And he commits a trespass against the Lord**" (Leviticus 5:21), serves **to include** one who takes a false oath with regard to **offerings of lesser sanctity** belonging to another, **which are the property of their owners.** This is **the statement of Rabbi Yosei HaGelili.** Accordingly, it might **enter your mind to say** that such animals **should be tithed.** Therefore, the mishna **teaches us** that the mitzva of animal tithe is not in effect with regard to sacrificial animals at all.

וְאֵימָא הָכִי נָמֵי! "יִהְיֶה קֹדֶשׁ" אָמַר רַחֲמָנָא, וְלֹא שֶׁכְּבָר קָדוֹשׁ.

The Gemara suggests: **But** one can **say it is indeed so,** i.e., perhaps offerings of lesser sanctity can indeed be tithed. The Gemara responds that **the Merciful One states:** "And all the tithe of the herd or the flock, whatever passes under the rod, the tenth **shall be sacred** to the Lord" (Leviticus 27:32). This teaches that this mitzva applies only to an animal that can become sacred in the future **but not** to an animal **that is already sanctified,** e.g., that has been set aside as an offering of lesser sanctity.

טַעֲמָא דִּכְתַב רַחֲמָנָא "יִהְיֶה קֹדֶשׁ", הָא לָאו הָכִי הֲוָה אָמִינָא חָיְילָא קְדוּשַׁת מַעֲשֵׂר עִילָּוּיֵהּ? הָשְׁתָּא קְדוּשָׁה חֲמוּרָה אַקְדּוּשָׁה קַלָּה לָא חָיְילָא, קְדוּשָׁה קַלָּה אַקְדּוּשָׁה קַלָּה מִיבְּעֵיָא?!

The Gemara raises a difficulty: **The reason** that offerings of lesser sanctity cannot be tithed is **that the Merciful One writes:** "The tenth **shall be sacred** to the Lord," from which it can be inferred that **were that not** the case, **I would say** that **the sanctity of** the animal **tithe** does **take effect on** the animal. This claim is difficult, as **now** that consecration of **stringent sanctity does not take effect with regard to** offerings of **lesser sanctity,** as will be explained, **is** it **necessary** to teach that a consecration of **lesser sanctity does not take effect with regard to** offerings of **lesser sanctity?**

מַאי הִיא – דְּתָנַן: אֶחָד קָדְשֵׁי מִזְבֵּחַ וְאֶחָד קָדְשֵׁי בֶדֶק הַבַּיִת – אֵין מְשַׁנִּין אוֹתָם מִקְדוּשָׁה לְקִדּוּשָׁה, אֲבָל מַקְדִּישִׁין אוֹתוֹ הֶקְדֵּשׁ עִילּוּי וּמַחֲרִימִין אוֹתוֹ.

The Gemara clarifies: **What is this** *halakha* that consecration of stringent sanctity does not take effect with regard to offerings of lesser sanctity? **As we learned** in a mishna (*Temura* 32a): **Both** concerning animals **consecrated for the altar and** items **consecrated for Temple maintenance, one cannot alter their** designation **from** one form of **sanctity to** another form of **sanctity.**[H] **But one can consecrate** an animal already consecrated for the altar by **consecration of its value,**[NH] and that value is donated to the Temple treasury for maintenance, in addition to the sacrificing of the animal. **And one can dedicate** that value for the purpose of giving it to the priests. This mishna teaches that one may not consecrate an animal that has already been consecrated for Temple maintenance as an offering for the altar, despite the fact that an offering has more stringent sanctity, and if so, then the sanctity of the animal tithe certainly does not take effect with regard to offerings of lesser sanctity.

HALAKHA

One cannot alter their designation from one sanctity to another sanctity – אֵין מְשַׁנִּין אוֹתָם מִקְדוּשָׁה לִקְדוּשָׁה: One cannot change the designation of an animal dedicated to the altar or for Temple maintenance from one type of sanctity to another. Similarly, one cannot designate a particular offering to be a different type of offering, e.g., a firstborn may not be designated as a burnt offering or a peace offering. Likewise, if one consecrated property for the maintenance of the Sanctuary, he may not then designate it for the maintenance of the altar. One who does so transgresses a Torah prohibition, although he is not liable to receive lashes. According to the Ra'avad, one can change the designation of animals consecrated for Temple maintenance from one type of Temple maintenance to another (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 2:14, and see *Kesef Mishne* there).

One can consecrate by consecration of its value – מַקְדִּישִׁין אוֹתוֹ הֶקְדֵּשׁ עִילּוּי: One may dedicate offerings of the most sacred order or offerings of lesser sanctity, whether for the priests or for Temple maintenance. If they were consecrated items for which one bears financial responsibility, he gives their value to the priests or for Temple maintenance and the animals are sacrificed. If the animal was a gift offering the court assesses how much one would be prepared to pay to get the animal back and sacrifice it as a voluntary burnt offering. Once he has paid that value he sacrifices the animal as a gift offering, in accordance with its original designation. This *halakha* is in accordance with the mishna in *Arakhin* 28b (Rambam *Sefer Hafla'a*, *Hilkhot Arakhin VaḤaramim* 6:11–12).

NOTES

Consecration of its value – הֶקְדֵּשׁ עִילּוּי: In other words, one evaluates the financial benefit he receives from the animal that he has sanctified and gives that value for Temple maintenance. If the animal was consecrated as a vow-offering, for which he bears financial responsibility if it is lost, he gives that same value. If it is a gift offering, he gives the value of its benefit of discretion (see *Arakhin* 28b).

The early commentaries disagree with regard to the meaning of this benefit of discretion. Rashi explains that it refers to the benefit accrued from giving the animal to whichever priest he chooses to perform its sacrifice. That priest receives some of the meat of a peace offering to eat, or its skin if it is a burnt offering. Others maintain that the benefit of discretion is the amount that a priest would be willing to pay for the owner to delay bringing the offering until that priest's watch (Rabbeinu Gershom Meor HaGola). Yet others contend that the assessment of consecration of its value is based on how much one who is not obligated to sacrifice an offering would pay to bring a gift offering if he could find an animal at an low price (*Tosafot*; Rambam).

In any case, this *halakha* applies specifically to an offering that one consecrates to the altar, in which case he is entitled to the benefit of discretion, and this is what he can consecrate. He cannot do the same with animals consecrated for Temple maintenance or with dedications allotted to the priests, as in those cases he has no benefit of discretion (*Temura* 32a).

BACKGROUND

Offerings of lesser sanctity – קָדָשִׁים קַלִּים: The category of offerings of lesser sanctity includes the various types of individual peace offerings: The thanks offering, the nazirite's ram, the male firstborn of a kosher animal, the animal tithe, and the Paschal offering. These offerings may be slaughtered anywhere in the Temple courtyard. Except for the thanks offering, the nazirite's ram, and the Paschal offering, they may be eaten for a period of two days from when they were sacrificed, including the intervening night. They may be eaten by the priests and their wives, their children, and their slaves, and, with the exception of the firstborn offering, by those bringing the offerings and any ritually pure, circumcised individuals whom they invite. There is no requirement to eat these offerings within the Temple grounds, but they must be eaten within the walls of Jerusalem. The prohibition against misuse of consecrated property applies only to the portions of these offerings that are consumed on the altar, and only after the blood has been sprinkled on the altar.

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מַהוּ דְּתֵימָא: הָתָם דְּכָל בְּהֵמָה לָאו לְעוֹלָה קָיְימָא; אֲבָל הָכָא דְּכָל בְּהֵמָה לְמַעֲשֵׂר קָיְימָא, אַף עַל גַּב דְּאַקְדְּשָׁה – לָא פְּקַע אִיסּוּרָא דְּמַעֲשֵׂר מִינָּהּ;

The Gemara answers: Even so, it is necessary for the mishna to teach that tithes do not take effect on offerings of lesser sanctity, **lest you say** that **there,** in the mishna in *Temura*, the reason is **that not every animal stands to** potentially become **a burnt offering,** i.e., an offering of more stringent sanctity, from the time it is born. For this reason the greater sanctity cannot take effect once the animal has been consecrated as an offering of lesser sanctity. **But** in the mishna **here, where every animal stands to** potentially become an animal **tithe** offering, one might have thought that **even though it is consecrated** as an offering of lesser sanctity, nevertheless the initial potential **prohibition,** i.e., status, **of** animal **tithe is not abrogated from it.**

לְמַאי נָפְקָא מִינָּהּ – בְּ״לֹא יִגָּאֵל״ וּבְ״לֹא יִמָּכֵר״, קָא מַשְׁמַע לָן.

The Gemara clarifies: **What difference is** there if an animal that has been consecrated as a peace offering is also sanctified as an animal tithe offering? The Gemara explains that if it is sanctified as an animal tithe offering, the prohibition **of: "It shall not be redeemed"** (Leviticus 27:33), **and** the prohibition **of: It shall not be sold** (see 32b), take effect. A peace offering can be redeemed, whereas it is prohibited to redeem or sell animal tithe even after its slaughter. Therefore, the mishna **teaches us** that the sanctity of animal tithe does not take effect on animals that have been consecrated as offerings of lesser sanctity.

״וְנוֹהֵג בַּבָּקָר וּבַצֹּאן וְאֵין מִתְעַשְּׂרִין מִזֶּה עַל זֶה בַּבְּהֵמוֹת וּבָעוֹפוֹת״ וכו׳. וְיֵהְוֵי חָדָשׁ וְיָשָׁן מִתְעַשְּׂרִין מִזֶּה עַל זֶה מִקַּל וָחוֹמֶר: וּמָה בְּהֵמוֹת וְעוֹפוֹת שֶׁהֵם כִּלְאַיִם זֶה בְּזֶה – מִתְעַשְּׂרִין מִזֶּה עַל זֶה, חָדָשׁ וְיָשָׁן שֶׁאֵינָן כִּלְאַיִם זֶה בְּזֶה – אֵינוֹ דִּין שֶׁיִּתְעַשְּׂרוּ מִזֶּה עַל זֶה?

§ The mishna teaches: **And** the animal tithe **is in effect with regard to the herd and the flock, but they are not tithed from one for the other;** and it is in effect **with regard to sheep and goats,** and they are tithed from one for the other. In this regard the Gemara cites a *baraita*: **Let** it be proven that the animals from **the new** flock and the animals from **the old** flock **can be tithed from one for the other, by an *a fortiori*** inference: **And if sheep and goats, which are** prohibited for interbreeding **with each other** due to the prohibition of **diverse kinds, are** nevertheless **tithed from one for the other,** with regard to animals from the **new** flock **and** the **old** flock, **which are not** prohibited for interbreeding **with each other** as **diverse kinds, is it not logical that they should be tithed from one for the other?**

תַּלְמוּד לוֹמַר: ״עַשֵּׂר תְּעַשֵּׂר״ – בִּשְׁתֵּי מַעֲשְׂרוֹת הַכָּתוּב מְדַבֵּר, אֶחָד מַעֲשֵׂר בְּהֵמָה וְאֶחָד מַעֲשֵׂר דָּגָן, וּמַקִּישׁ מַעֲשֵׂר בְּהֵמָה לְמַעֲשֵׂר דָּגָן: מַה מַּעֲשֵׂר דָּגָן – מֻחְדָּשׁ עַל הַיָּשָׁן לֹא, אַף מַעֲשֵׂר בְּהֵמָה – מֻחְדָּשׁ עַל הַיָּשָׁן לֹא.

The *baraita* continues: Therefore, **the verse states: "You shall tithe a tithe** from all the increase of your seed that the field brings forth year by year. And you shall eat before the Lord your God, in the place that He shall choose to place His name there, the tithe of your grain, of your wine, and of your oil, and the firstborn of your herds and of your flocks; that you may learn to fear the Lord your God always" (Deuteronomy 14:22–23). Here, **the verse is speaking of two tithes; one** is **the animal tithe and** the other **one** is **the grain tithe. And** the verse **juxtaposes** the **animal tithe to** the **grain tithe,** teaching that **just as** the **grain tithe** is **not** taken **from the new** grain **for the old** grain, **so too,** the **animal tithe** is **not** taken **from the new** flock **for the old** flock.

אִי הָכִי, בְּהֵמוֹת וְעוֹפוֹת נַמִּי לֵימָא: מַקִּישׁ מַעֲשֵׂר בְּהֵמָה לְמַעֲשֵׂר דָּגָן, מַה מַּעֲשֵׂר דָּגָן – מִמִּין עַל שֶׁאֵינוֹ מִינוֹ לֹא, אַף מַעֲשֵׂר בְּהֵמָה – מִמִּין עַל שֶׁאֵינוֹ מִינוֹ לֹא! רַבִּי רַחֲמָנָא ״צֹאן״.

The Gemara asks: **If so, let us say** with regard to **sheep and goats** that they **too** are not tithed for each other, by the same reasoning, i.e., that the verse **juxtaposes** the **animal tithe to** the **grain tithe: Just as grain tithe** is **not** separated **from** one **type** of grain **for** another grain **that is not its type, so too, animal tithe** is **not** separated **from** one **type** of animal **for** another species of animal **that is not its type.** The Gemara answers that with regard to animal tithe **the Merciful One has amplified** the *halakha* by stating **"flock"** (Leviticus 27:32). This teaches that all species referred to with the term flock, i.e., sheep and goats, are tithed together.

אִי הָכִי, חָדָשׁ וְיָשָׁן נַמִּי! הָא כְּתִיב ״עַשֵּׂר תְּעַשֵּׂר״. וּמָה רָאִיתָ? אֲמַר רָבָא: אָמַר קְרָא ״שָׁנָה שָׁנָה״ – לְשָׁנָה הִקְּשְׁתִּיו וְלֹא לְדָבָר אַחֵר.

The Gemara suggests: **If so,** let us **also** say that **new** flocks are tithed together with **old** flocks, based on that amplification of the verse. The Gemara answers that **it is written: "You shall tithe a tithe"** (Deuteronomy 14:22), to teach that old and new flocks are not tithed together. The Gemara asks: **And what did you see** that led you to use the juxtaposition to prohibit tithing old and new flocks together but not to prohibit tithing sheep and goats together? **Rava said the verse states: "Year by year"** (Deuteronomy 14:22), which teaches that **I have juxtaposed** the flocks **with regard to the year**[H] in which they were born, i.e., to prohibit tithing old and new flocks together, **but not with regard to another matter.**

HALAKHA

I have juxtaposed with regard to the year – לְשָׁנָה הִקְּשְׁתִּיו: One may not separate *teruma* from produce of one year for produce of another year. If he did so his *teruma* is not valid *teruma*. This ruling is in accordance with the Gemara here and the mishna in *Terumot* 2:4 (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 5:11; *Shulḥan Arukh*, *Yoreh De'a* 331:57).

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HALAKHA

One may not separate *teruma* from one type to exempt produce that is not its type – אֵין תּוֹרְמִין מִמִּין עַל שֶׁאֵינוֹ מִינוֹ: One may not separate *teruma* from one type of produce for another type of produce. If he did so his *teruma* is not valid *teruma*. This ruling is in accordance with the mishna in *Terumot* 2:4 (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 5:2–3; *Shulḥan Arukh*, *Yoreh De'a* 331:53).

תְּנַן הָתָם: אֵין תּוֹרְמִין מִמִּין עַל שֶׁאֵינוֹ מִינוֹ, וְאִם תָּרַם – אֵין תְּרוּמָתוֹ תְּרוּמָה. מְנָא הָנֵי מִילֵּי? אָמַר רַבִּי אַמִּי אָמַר רַבִּי יַנַּאי, וְאָמְרִי לָהּ אָמַר רַבִּי אַמִּי אָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ: ״כֹּל חֵלֶב יִצְהָר וְכָל חֵלֶב תִּירוֹשׁ וְדָגָן״ – אָמְרָה תּוֹרָה: תֵּן חֵלֶב זֶה, וְחֵלֶב לָזֶה.

§ **We learned** in a mishna **there** (*Terumot* 2:4): **One may not separate the portion of the produce designated for the priest** [*teruma*] **from** one **type** of produce **to** exempt another type of produce **that is not its type,**[H] **and if one did separate *teruma*** in that manner, **his *teruma* is not *teruma*.** The Gemara asks: **From where is this matter** derived? **Rabbi Ami says** that **Rabbi Yannai says, and some say** that **Rabbi Ami says** that **Rabbi Shimon ben Lakish says,** that the verse states with regard to *teruma*: **"All the best of the oil, and all the best of the wine, and of the grain,** the first part of them, which they give to the Lord, to you have I given them" (Numbers 18:12). **The Torah says: Give the best,** i.e., *teruma* and tithes, **of this,** the oil, **and the best of that,** the wine, separately, i.e., one may not give *teruma* or tithes from one for the other. This mitzva also applies to tithes, as it too is called: "The best" (Numbers 18:30).

Perek **IX**
Daf **54** Amud **a**

HALAKHA

Until he sows wheat and barley and a grape seed with a single hand motion – עַד שֶׁיִּזְרַע חִטָּה וּשְׂעוֹרָה וְחַרְצָן בְּמַפּוֹלֶת יָד: One does not receive lashes for planting diverse kinds in a vineyard unless he plants wheat, barley, and grape seeds, all in a single hand motion, in accordance with the opinion of Rabbi Yoshiya. Furthermore, the prohibition applies only in Eretz Yisrael (Rambam *Sefer Zera'im*, *Hilkhot Kilayim* 5:2; *Shulḥan Arukh*, *Yoreh De'a* 296:1).

אַשְׁכַּחַן תִּירוֹשׁ וְיִצְהָר; תִּירוֹשׁ וְדָגָן, דָּגָן וְדָגָן מִנַּיִן? קַל וָחוֹמֶר: וּמַה תִּירוֹשׁ וְיִצְהָר שֶׁאֵינָן כִּלְאַיִם זֶה בָּזֶה – אֵין מִתְעַשְּׂרִין מִזֶּה עַל זֶה; תִּירוֹשׁ וְדָגָן, דָּגָן וְדָגָן, שֶׁהֵם כִּלְאַיִם זֶה בָּזֶה – אֵינוֹ דִּין שֶׁלֹּא יִתְעַשְּׂרוּ מִזֶּה עַל זֶה?

The Gemara asks: **We found** a source for the *halakha* that one may not separate *teruma* from **wine and oil** together; **from where** is it derived that one may not separate *teruma* from **wine and grain** together, or from **grain** of one kind **and grain**[N] of a different kind together? The Gemara answers that this can be derived by **an *a fortiori*** inference: **And if wine and oil, which are not** prohibited due to the prohibition of **diverse kinds** if they are planted **with each other,** nevertheless **may not be tithed from one for the other,** then with regard to **wine and grain** or **grain and grain, which are** subject to the prohibition of **diverse kinds** when planted **with each other, is it not logical that they may not be tithed from one for the other?**

וְלַרַבִּי יֹאשִׁיָּה דְּאָמַר: עַד שֶׁיִּזְרַע חִטָּה וּשְׂעוֹרָה וְחַרְצָן בְּמַפּוֹלֶת יָד, הֵיכִי מַיְיתֵי לָהּ?

The Gemara challenges: **But** this derivation is problematic **according to** the opinion of **Rabbi Yoshiya,**[N] **who says** that the verse: "You shall not sow your vineyard with diverse kinds" (Deuteronomy 22:9), means that one who sows diverse kinds is not liable by Torah law **until he sows wheat and barley and** a grape **seed with a single hand motion.**[H] According to this opinion, the above *a fortiori* inference is not valid; consequently, **how does he derive** the *halakha* that one may not tithe grain for wine or grain for grain?

NOTES

Wine and grain or grain and grain – תִּירוֹשׁ וְדָגָן דָּגָן וְדָגָן: It is prohibited to plant grape vines together with grain, and it is also prohibited to derive benefit from produce grown in this manner, as the verse states: "You shall not sow your vineyard with diverse kinds, lest the fullness of the seed that you have sown be forfeit together with the increase of the vineyard" (Deuteronomy 22:9). By contrast, although it is prohibited to plant two different types of grain together, if one did so, the produce is not prohibited for consumption and one may derive benefit from it. It can be inferred from the Gemara that the prohibition of growing two different types of grain is by Torah law (see Rashi and *Tosafot*).

But according to the opinion of Rabbi Yoshiya – וּלְרַבִּי יֹאשִׁיָּה: The commentaries explain that Rabbi Yoshiya's reasoning is based on the verse: "You shall not sow your vineyard with diverse kinds" (Deuteronomy 22:9), which indicates that one may not plant two types of plant in a vineyard, in addition to the vines themselves (*Tosafot*). According to Rabbi Yonatan, who disagrees with Rabbi Yoshiya, the prohibition of diverse kinds in a vineyard applies even if only one other kind is planted with the vines. According to this opinion, the prohibition applies even if the seeds are not planted with a single hand motion (*Tosafot*). Some of the early commentaries hold that even according to the opinion of Rabbi Yonatan the prohibition of diverse kinds applies only when the grain and the grape seeds are planted with a single hand motion (Ramban).

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מַיְיתֵי לָהּ הָכִי: וּמַה תִּירוֹשׁ וְיִצְהָר, שֶׁאֵינָן כִּלְאַיִם זֶה בָּזֶה אֲפִילּוּ עַל יְדֵי דָּבָר אַחֵר – אֵין מִתְעַשְּׂרִין מִזֶּה עַל זֶה; תְּבוּאָה וְדָגָן, דָּגָן וְדָגָן, שֶׁהֵן כִּלְאַיִם זֶה בָּזֶה עַל יְדֵי דָּבָר אַחֵר – אֵינוֹ דִּין שֶׁלֹּא יִתְעַשְּׂרוּ מִזֶּה עַל זֶה?

The Gemara answers that **he derives it in this manner: And if wine and oil, which are not** prohibited as **diverse kinds with each other even by means of something else,** i.e., even if one planted a different kind of grain seed with them, do not become prohibited, and yet **they may not be tithed from one for the other,** then with regard to **wine and grain** or **grain and grain, which are** prohibited as **diverse kinds with something else,** i.e., if they are planted with another type of seed, **is it not logical that they may not be tithed from one for the other?**

וּשְׁנֵי מִינִין בְּעָלְמָא מְנָלַן? הָנֵי דְּרַבָּנַן נִינְהוּ, וְכָל דְּתַקִּינוּ רַבָּנַן – כְּעֵין דְּאוֹרַיְיתָא תַּקִּינוּ, מַה דְּאוֹרַיְיתָא שְׁנֵי מִינִין אֵינָן מִתְעַשְּׂרִין מִזֶּה עַל זֶה – דְּרַבָּנַן נַמִי.

The Gemara asks: It can be derived in this manner that one may not separate *teruma* or tithes from wine for grain or vice versa; **but from where do we** derive the prohibition against separating *teruma* or tithes from **two species in general** that are not grain, e.g., lentils and beans, one for the other? The Gemara answers that the obligation to separate tithes from **these** other species, which are not mentioned in the Torah, applies **by rabbinic** law,[N] **and** concerning **all** ordinances **that the Sages instituted, they instituted** them **parallel to Torah law.** Therefore, **just as by Torah law two species may not be tithed from one for the other,** so **too,** those mixtures that are prohibited **by rabbinic law** may not be tithed one for another.

אֲמַר לֵיהּ רָבָא בַּר רַב חָנָן לְאַבַּיֵי: אֶלָּא מֵעַתָּה, גַּבֵּי מַעְשַׂר בְּהֵמָה, דְּלָא כְּתִיב ״וְכָל מַעְשַׂר בָּקָר וּמַעְשַׂר צֹאן״,

Rava bar Rav Ḥanan said to Abaye: If that is so, then **with regard to animal tithe, where it is not written** in the Torah: **And all the tithe of the herd or the tithe of the flock,** with the word "tithe" mentioned twice, once in reference to the herd and once in reference to the flock, but rather the verse states: "And all the tithe of the herd or the flock, whatever passes under the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32),

NOTES

These are by rabbinic law – הָנֵי דְּרַבָּנַן נִינְהוּ: Some early commentaries prove from the wording of the Gemara that the requirement to separate *teruma* and tithes from all produce other than grain, grapes, and oil is by rabbinic law (Rashi; *Tosafot*). The Rambam holds that the obligation to separate *teruma* and tithes from all produce apart from vegetables is by Torah law. Some maintain that the Rambam derives his ruling from the Jerusalem Talmud (Radbaz; *Arukh HaShulḥan*).

Perek **IX**
Daf **54** Amud **b**

יִתְעַשְּׂרוּ מִזֶּה עַל זֶה! אֲמַר לֵיהּ: אָמַר קְרָא ״הָעֲשִׂירִי״ – תֵּן עֲשִׂירִי לָזֶה, וְתֵן עֲשִׂירִי לָזֶה. אִי הָכִי, כְּבָשִׂים וְעִזִּים נַמִי! ״צֹאן״ – מַשְׁמַע כָּל צֹאן אֶחָד.

let them be tithed from one for the other. Abaye **said to him** that **the verse states: "The tenth** shall be sacred to the Lord" (Leviticus 27:32). This indicates that one must **give the tenth** animal **from this,** the flock, **and give the tenth** animal **from that,** the herd, with each counted and given separately. The Gemara raises a difficulty: **If so, sheep and goats** should **also** have to be tithed separately. The Gemara answers that the verse states: **"Or the flock,"** which **means** that **all** the goats and sheep **are one flock** and may be tithed together.

הָכָא נַמִי לֵימָא: מַשְׁמַע כָּל דָּגָן אֶחָד! אֲמַר אַבַּיֵי: ״רֵאשִׁיתָם״, וְכֵן אָמַר רַבִּי אִילְעָא: ״רֵאשִׁיתָם״.

The Gemara raises a further difficulty: **Here too,** with regard to *teruma* and tithes, **let us say** that the term "grain" (Numbers 18:12) **means** that **all** the different types of grain are considered **one grain,** and may be tithed together. **Abaye said** in response that there it is different, as the verse states: **"The first part of them"** (Numbers 18:12), in the plural, which teaches that one must give the first part for each type of produce separately. **And Rabbi Ile'a says likewise** that **"the first part of them"** teaches that one must give the first part for each type of produce separately.

רָבָא אָמַר: בְּלָא ״רֵאשִׁיתָם״ נַמִי, מַשְׁמַע כָּל דָּגָן אֶחָד – לָא מָצֵית אָמְרַתְּ; בִּשְׁלָמָא הָתָם אָמְרִינַן: ״צֹאן״ – מַשְׁמַע כָּל צֹאן אֶחָד, דְּאִי סָלְקָא דַּעְתָּךְ כְּבָשִׂים וְעִזִּים נַמִי – לִכְתּוֹב: ״וְכָל מַעְשַׂר בְּהֵמָה״.

Rava said that there is an alternative answer: Even **without** the term **"the first part of them"** there is **also** no difficulty, as **you cannot say** the term "grain" **means** that **all** the different types of grain are considered **one grain.** Rava explains: **Granted, there,** with regard to sheep and goats, **we say** that the term **"or the flock" means** that **all** goats and sheep **are one flock. Because if it enters your mind** that **sheep and goats** may **also** not be tithed one for the other, like the herd and the flock, **let** the verse **write: And all the animal tithe,** without distinguishing between herds and flocks.

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HALAKHA

Grain tithe may not be separated from one type for another that is not its type – מַעְשַׂר דָּגָן מִמִּין עַל שֶׁאֵינוֹ מִינוֹ לֹא: One may not separate tithe for one type of grain from another type of grain (Rambam *Sefer Zera'im*, *Hilkhot Ma'aser* 1:6; *Shulḥan Arukh*, *Yoreh De'a* 331:71–72).

וְכִי תֵּימָא: אִי כְּתִיב ״כָּל מַעְשַׂר בְּהֵמָה״ הָוֵי אָמִינָא אֲפִילּוּ חַיָּה – ״תַּחַת״ ״תַּחַת״ מִקֳּדָשִׁים גְּמַר.

And if you would say that **if** the verse **had written: All the animal tithe, I would say** that the requirement to tithe animals applies **even to undomesticated animals,** this is not so. The reason is that one **derives** the *halakha* of the animal tithe **from sacrificial** animals, via a verbal analogy of the terms "under" and "under." With regard to sacrificial animals it states: "When a bull, or a sheep, or a goat is brought forth, then it shall be seven days **under** its mother, but from the eighth day onward it may be accepted for an offering made by fire to the Lord" (Leviticus 22:27), and with regard to animal tithe it states: "And all the tithe of the herd or the flock, whatever passes **under** the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32). It is derived through this verbal analogy that just as an undomesticated animal cannot be consecrated as an offering, so too, it cannot be tithed.

וְאָתֵי בְּקַל וָחוֹמֶר מֵחָדָשׁ וְיָשָׁן, ״בָּקָר וָצֹאן״ לָמָּה לִי? בָּקָר וְצֹאן הוּא דְּאֵין מִתְעַשְּׂרִין מִזֶּה עַל זֶה, אֲבָל כִּבְשִׂים וְעִזִּים – מִתְעַשְּׂרִין.

Rava continues his explanation: **And** as one would not have thought that undomesticated animals are included in the animal tithe the verse could have stated: And all the animal tithe, and one would **derive** that one species may not be tithed for another **by an *a fortiori*** inference **from new** grain **and old** grain, as specified earlier: If the grain tithe may not be taken from the new grain for the old grain despite the fact that the prohibition of diverse kinds does not apply, all the more so with regard to different species of animal, which are prohibited as diverse kinds; the animal tithe may not be taken from one for another. If so, **why do I** need the verse to state: "**The herds or the flock"?** This teaches that **herds** of cattle **and flocks** of sheep or goats **may not be tithed from one for the other, but sheep and goats,** which are both called flocks, **may be tithed** from one for the other.

אֲבָל הָכָא – מִי סָגֵיָא דְּלָא כְּתִיב ״דָּגָן״ לְמַעוּטֵי שְׁאָר מִינִין?

Rava concludes: **But here,** in the case of grain, **would it suffice if** the Torah **had not written: "Grain," to exclude other types** of foods from the obligation of tithes by Torah law? In other words, the term "grain" must be serving to exclude other types of food, as one cannot claim they could have been excluded in some other manner.

מַתְקִיף לָהּ רַב הוּנָא בְּרֵיהּ דְּרַב נַחְמָן: אֵימָא לְעַרְבּוּ לְבָקָר בְּצֹאן! אֲמַר לֵיהּ מָר זוּטְרָא בְּרֵיהּ דְּרַב נַחְמָן: לְרָבָא אִית לֵיהּ נַמִּי ״הָעֲשִׂירִי״.

Rav Huna, son of Rav Naḥman, objects to this claim of Rava in which it is derived from the words "herd" and "flock" that cattle and sheep may not be tithed together. One can **say** instead that this teaches **that** one should **intermingle the** cattle in the **herd with** the sheep in the **flock** and tithe them all together. **Mar Zutra, son of Rav Naḥman, said to** Rav Huna, son of Rav Naḥman: **Rava also accepts** the opinion of Abaye that the verse "**The tenth** shall be sacred to the Lord" teaches that cattle and sheep must be tithed separately, and therefore he does not entertain that derivation.

אִיכָּא דְּאָמְרִי, אֲמַר רָבָא: בְּלָא ״עֲשִׂירִי״ נַמִּי לָא מָצֵית אָמְרַתְּ בָּקָר וְצֹאן מִתְעַשְּׂרִין מִזֶּה עַל זֶה, דְּאִיתְּקֵשׁ מַעְשַׂר בְּהֵמָה לְמַעְשַׂר דָּגָן: מַה מַּעְשַׂר דָּגָן – מִמִּין עַל שֶׁאֵינוֹ מִינוֹ לֹא, אַף מַעְשַׂר בְּהֵמָה – מִמִּין עַל שֶׁאֵינוֹ מִינוֹ לֹא.

There are those **who say** that **Rava said:** Even **without** the verse "**The tenth** shall be sacred to the Lord" **you also cannot say** that **a herd and a flock** should **be tithed from one for the other, as animal tithe is juxtaposed to grain tithe: Just as grain tithe** may **not** be separated **from** one **type** of grain **for** another grain **that is not its type,**[H] **so too, animal tithe** may **not** be separated **from** one **type** of animal **for** another species of animal **that is not its type.**

וְהָא רָבָא הוּא דְּאָמַר: ״שָׁנָה״ – לְשָׁנָה הִקְּשְׁתִּיו וְלֹא לְדָבָר אַחֵר! הֲדַר בֵּיהּ רָבָא מֵהַהִיא. וְאִיבָּעֵית אֵימָא: חֲדָא מִינַּיהּ רַב פַּפָּא אֲמָרָהּ.

The Gemara asks: **But isn't** it **Rava** himself **who said** that the term: "**Year** by year" (Deuteronomy 14:22), teaches that **I have juxtaposed** the two types of tithe **with regard to the year** in which they were born, teaching that one may not tithe old and new flocks together, **but not with regard to another matter,** i.e., there is no prohibition against tithing two types together? The Gemara answers: **Rava retracted that** first opinion, and maintains that the juxtaposition applies even to the tithing of two types together. **And if you wish, say** instead that **one of** those opinions was **said** by **Rav Pappa,** not by Rava. Since Rav Pappa was Rava's closest student and took over as head of the academy after Rava's death, his statements were occasionally mistaken for those of Rava himself.

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מתני׳ מַעֲשֵׂר בְּהֵמָה מִצְטָרֵף כִּמְלֹא רֶגֶל בְּהֵמָה רוֹעָה. וְכַמָּה הִיא רֶגֶל בְּהֵמָה רוֹעָה? שִׁשָּׁה עָשָׂר מִיל. הָיוּ בֵּין אֵלּוּ לָאֵלּוּ שְׁלֹשִׁים וּשְׁנַיִם מִיל – אֵין מִצְטָרְפִין. הָיוּ לוֹ בָּאֶמְצַע – מֵבִיא וּמַעֲשְׂרָן בָּאֶמְצַע. רַבִּי מֵאִיר אוֹמֵר: הַיַּרְדֵּן מַפְסִיק לְמַעְשַׂר בְּהֵמָה.

MISHNA Animals subject to the obligation of **animal tithe join together**[H] if the distance between them is no greater **than the distance that a grazing animal** can **walk** and still be tended by one shepherd. **And how much is the distance that a grazing animal walks?** It is **sixteen *mil*.**[B] If the distance **between these** animals **and those** animals **was thirty-two *mil* they do not join together.** If **he** also **had** animals **in the middle** of that distance of thirty-two *mil*, **he brings** all three flocks to a pen **and tithes them in the middle. Rabbi Meir says: The Jordan** River **divides** between animals on two sides of the river **with regard to animal tithe,** even if the distance between them is minimal.

גמ׳ מְנָא הָנֵי מִילֵי?

GEMARA The mishna teaches that animals join together for the purposes of tithing if the distance between them is no greater than the distance a grazing animal can walk and still be tended by one shepherd. The Gemara asks: **From where are these matters** derived? What is the source that this is the maximum distance at which they can be tithed together?

אֲמַר רַבָּה בַּר שֵׁילָא: דְּאָמַר קְרָא ״עוֹד תֵּעָבֵרְנָה הַצֹּאן עַל יְדֵי מוֹנֶה״, וְקִים לְהוּ לְרַבָּנַן דְּשִׁיתְסַר מִיל קָא שָׁלְטָא בֵּיהּ עֵינָא דְּרוֹעֶה.

Rabba bar Sheila said that the verse states: "So says the Lord of hosts: Yet again shall there be in this place, which is desolate, without man and without animal, and in all its cities, a habitation of shepherds causing their flocks to lie down. In the cities of the hill country, in the cities of the lowland, and in the cities of the south, and in the land of Benjamin, and in the places about Jerusalem, and in the cities of Judah, **the flock shall again pass under the hands of him who counts them,** says the Lord" (Jeremiah 33:12–13). It is derived from here that animals that can pass under the hands of one shepherd are called one flock and can be counted together for the animal tithe. **And the Sages have** an accepted **tradition that the eye of the shepherd can see** up to a distance of **sixteen *mil*.**

״הָיוּ בֵּין אֵלּוּ לָאֵלּוּ שְׁלֹשִׁים וּשְׁנַיִם מִיל אֵין מִצְטָרְפִין״ וכו׳. שְׁלֹשִׁים וּשְׁנַיִם הוּא דְּאֵין מִצְטָרְפִין, הָא בְּצִיר מֵהָכִי – מִצְטָרְפִין? וְהָא קָתָנֵי: שִׁשָּׁה עָשָׂר מִיל, טְפֵי לָא! מְשׁוּם דְּקָא בָּעֵי לְמִיתְנָא סֵיפָא: הָיוּ לוֹ בָּאֶמְצַע – מֵבִיא וּמַעֲשְׂרָן בָּאֶמְצַע.

§ The mishna teaches that if the distance **between these** animals **and those** animals **was thirty-two *mil* they do not join together.** The Gemara infers: **It is** only if the distance between them is **thirty-two** *mil* **that they do not join together,** from which it can be inferred that if the distance between them is **less than this** they do **join together. But** the mishna earlier **teaches: Sixteen *mil*,** which indicates: **And no more.** The Gemara answers: One cannot infer that if the distance is less than thirty-two *mil* the animals join together. The mishna mentions thirty-two *mil* only **because it wants to teach** in **the latter clause:** If **he** also **had** animals **in the middle** of that distance of thirty-two *mil*, **he brings** them all to a pen **and tithes them in the middle.**

וְכַמָּה? אָמַר רַב: חֲמֵשׁ מִכָּאן וְחֲמֵשׁ מִכָּאן וְחֲמֵשׁ מֵאֶמְצַע, דְּהָנֵי חֲמֵשׁ חָזְיָא לְהָכָא וְחָזְיָא לְהָכָא.

The Gemara asks: **And how many** animals must he have on the two sides and in the middle in order to tithe them as one group? **Rav says: Five from here and five from there and five in the middle.** The reason is **that these five** in the middle **are fit** to combine **with** the animals **here and are** likewise **fit** to combine **with** the animals **there,** to amount to a total of ten, to which the obligation of animal tithe applies. For this reason all three flocks are considered as one flock.

וּשְׁמוּאֵל אָמַר: אֲפִילּוּ חֲמֵשׁ מִכָּאן וְחֲמֵשׁ מִכָּאן וְאֶחָד בָּאֶמְצַע, חָזֵינַן לָרוֹעֶה כְּמַאן דְּקָאֵי הָכָא, וְקָרֵינַן בֵּיהּ ״מוֹנֶה״.

And Shmuel says: Even if there are **five from here and five from there and** only **one in the middle** they may be tithed together. The reason is that **we see the shepherd as one who stands here** in the middle **and we apply** the verse: **"Who counts them"** (Jeremiah 33:13), to him. Since he can see and count both sides from his vantage point in the middle, they are all considered one flock.

BACKGROUND

***Mil* – מִיל:** A unit of distance. Presumably the word derives from the Roman *mille*, or mile, although the distance of a *mille* is almost certainly not identical to that of the *mil*. The Roman mile was one thousand steps, about 1,490 m; however, the Sages established a *mil* as two thousand cubits, which is a shorter distance. Recent authorities disputed the length of this measurement. Rav Ḥayyim Na'e holds that one *mil* is about 960 m, while the Ḥazon Ish maintains that it is almost 1,200 m.



Roman milestone

HALAKHA

Animals subject to the obligation of animal tithe join together – מַעֲשֵׂר בְּהֵמָה מִצְטָרֵף: One is not required to bring all his animals born in the same year into a single pen for the purposes of tithing them. Rather, each flock may be tithed separately. If one has five lambs in one city and five in another, they do not combine, and they are all exempt from animal tithe, provided that the two flocks are at least sixteen *mil* apart (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:2).

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מֵיתִיבִי: הָיָה לוֹ חָמֵשׁ בִּכְפַר חֲנַנְיָה וְחָמֵשׁ בִּכְפַר עוֹתְנַי – אֵין מִצְטָרְפוֹת, עַד שֶׁיִּהְיֶה לוֹ אַחַת בְּצִיפּוֹרִי. תִּיּוּבְתָּא דְּרַב!

The Gemara **raises an objection** to the opinion of Rav from a *baraita*: If **one had five** sheep **in the village of Ḥananya**[B] **and five** sheep **in the village of Otnai,**[B] which is a distance of thirty-two *mil* from the village of Ḥananya, **they do not combine, unless he** also **has one** sheep between them, **in Tzippori.**[B] This is apparently **a conclusive refutation** of the opinion **of Rav** that there must be at least five sheep in the middle.

תִּרְגְּמָהּ שְׁמוּאֵל אַלִּיבָּא דְּרַב: כְּגוֹן שֶׁהָיוּ תֵּשַׁע מִכָּאן וְתֵשַׁע מִכָּאן וְאַחַת בָּאֶמְצַע, דְּהַהִיא חֲזָיָא לְהָכָא וְחֲזָיָא לְהָכָא.

Shmuel interpreted the *baraita* **in accordance with** the opinion **of Rav.** The *baraita* does not mean he had five sheep on either side, but rather it is referring to a case **where he had nine** sheep **from here and nine** sheep **from there and one in the middle.**[H] This case is different, **as that** one sheep in the middle **is fit** to combine **with** the animals **here and is fit** to combine **with** the animals **there,** to constitute a total of ten animals on either side, to which the obligation applies.

אָמַר רַב פַּפָּא: וְלִשְׁמוּאֵל – אֲפִילּוּ רוֹעֶה מְצָרְפָן, וַאֲפִילּוּ כֵּלָיו שֶׁל רוֹעֶה מְצָרְפָן.

Rav Pappa says: And according to the opinion of **Shmuel** that one animal in the middle is sufficient to combine the two groups on either side of it, **even** if **the shepherd** himself is in the middle without any sheep, he **combines** the two flocks on either side. **And even** if only **the implements of the shepherd** are in the middle, they **combine** the two flocks on either side into one flock. Since the shepherd must go there to collect his implements it is considered as though he is already there and therefore the two flocks are combined.

בָּעֵי רַב אַשִׁי: כַּלְבָּא דְּרוֹעֶה מַאי? כֵּיוָן דְּקָרֵי לֵיהּ וְאָתֵי – לָא מִצְטָרְפִי, אוֹ דִלְמָא זִימְנִין דְּלָא אָתֵי וּמִצְטָרְפִי אִיהוּ לְמֵיזַל וְאָתֵיֵיהּ? תֵּיקוּ.

Rav Ashi raises a dilemma: What is the *halakha* in a case where **the dog of the shepherd** is in the middle? Does it combine the two flocks into one or not? **Since** the shepherd can **call** the dog **and it comes,** perhaps it does **not combine** the two flocks, as the shepherd himself has no need to go to the middle, so the dog is not like the implements of the shepherd. **Or perhaps,** because **sometimes** the dog **does not come** when the shepherd calls it, **and** in such cases the shepherd **himself must go and bring it,** it does combine the two flocks. The Gemara states that the dilemma **shall stand** unresolved.

״רַבִּי מֵאִיר אוֹמֵר: הַיַּרְדֵּן מַפְסִיק לְמַעְשֵׂר בְּהֵמָה״. אָמַר רַבִּי אַמִּי: לֹא שָׁנוּ אֶלָּא שֶׁאֵין שָׁם גֶּשֶׁר, אֲבָל יֵשׁ שָׁם גֶּשֶׁר – גֶּשֶׁר מְצָרְפָן.

§ The mishna teaches that **Rabbi Meir says: The Jordan** River **divides** between animals on two sides of the river with regard **to animal tithe,** even if the distance between them is minimal. **Rabbi Ami says: They taught** that the Jordan River serves as a partition **only when there is no bridge there, but** if **there is a bridge there, the bridge combines** the two flocks into one for the purposes of tithing.

BACKGROUND

Village of Ḥananya – כְּפַר חֲנַנְיָה: This village was in the valley of Beit HaKerem. It was on the border between the Lower and Upper Galilee (see *Shevi'it* 9:2). In the talmudic period it was known for its fine earthenware vessels.



Map showing location of Ḥananya, Tzippori, and Otnai

Village of Otnai – כְּפַר עוֹתְנַי: The village of Otnai was a small settlement on the southern edge of the Lower Galilee, on the border with the land of the Samaritans.

Tzippori – צִיפּוֹרִי: Tzippori, or Sepphoris in Greek, was a large town in the Lower Galilee, which rivaled Tiberias as the religious capital of the Galilee. During the Second Temple period it enjoyed special status among the towns of the Galilee due to its large and learned Jewish community. The *tanna'im* who lived there include Rabbi Yoḥanan ben Nuri, Rabbi Ḥalafta, and Rabbi Ḥalafta's famous son Rabbi Yosei. Rabbi Yehuda HaNasi moved to Tzippori toward the end of his life, and the seat of the Sanhedrin was there for about a generation. Furthermore, Rabbi Yehuda HaNasi's leading disciples lived there. After the Sanhedrin moved to Tiberias, Torah scholars continued to live in Tzippori, and it remained a Torah center for many years. Even during the time of the Jerusalem Talmud, Tzippori was an important center in the Lower Galilee.

The distance both between the village of Ḥananya and Tzippori, and between Tzippori and the village of Otnai, is approximately 30 km, which is about thirty-two *mil* (see *Tosefta* 7:3).



Remains of ancient Tzippori

HALAKHA

Nine from here and nine from there and one in the middle – תֵּשַׁע מִכָּאן וְתֵשַׁע מִכָּאן וְאַחַת בָּאֶמְצַע: With regard to one who has flocks of sheep in three different places, if the distance between each flock is less than sixteen *mil* they all combine together for the purpose of animal tithe. For example, if in such a case there were nine lambs born in one place, nine born in another, and one born between them, all three flocks combine and the lambs are placed in a pen together to be tithed. This *halakha* is in accordance with the ruling of the *baraita* and the opinion of Rav, following the principle with regard to the disputes between Rav and Shmuel that the *halakha* is in accordance with the opinion of Rav in matters involving ritual law (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:3).

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אַלְמָא: מִשּׁוּם דְּלָא מִיקָּרְבָן הוּא. מֵיתִיבִי: הָיוּ לוֹ בִּשְׁנֵי עֲבְרֵי הַיַּרְדֵּן אֵילָךְ וְאֵילָךְ, אוֹ בִּשְׁנֵי אַבְטִילָאוֹת, כְּגוֹן שֶׁל נָמֵר וְנָמוֹרִי – אֵין מְצָטָרְפִין, וְאֵין צָרִיךְ לוֹמַר חוּצָה לָאָרֶץ וְאָרֶץ.

The Gemara notes: **Apparently,** the Jordan River serves as a partition **because** the flock on one side **is not close** and is unable to join the flock on the other side due to the river between them. The Gemara **raises an objection** from a *baraita*: If **one had** sheep **on both sides of the Jordan** River, **here and there; or** if the flocks were **in two counties** [***avtilaot***],[L] **e.g., Namer and Namori,**[B] even if they were under the control of the same ruler, the flocks **do not combine,** even if there is no river between them and they are less than thirty-two *mil* apart. **And needless to say,** if one flock is **outside of Eretz** Yisrael **and** the other is inside **Eretz** Yisrael, they do not combine.

וְהָא חוּצָה לָאָרֶץ וְאָרֶץ כְּמָקוֹם שֶׁיֵּשׁ גֶּשֶׁר דָּמֵי, וְקָתָנֵי: לֹא מְצָטָרְפִין!

The Gemara clarifies its objection: **But** the partition between **outside of Eretz** Yisrael **and** inside **Eretz** Yisrael is **like a place that has a bridge,** as the two areas are not necessarily separated by water. **And** yet the *baraita* **teaches** that they **do not combine.**

אֶלָּא אָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: הַיְינוּ טַעֲמֵיהּ דְּרַבִּי מֵאִיר, דְּאָמַר קְרָא: ״וְהַיַּרְדֵּן יִגְבֹּל אוֹתוֹ לִפְאַת קֵדְמָה״ – הַכָּתוּב עֲשָׂאוֹ גְּבוּל בִּפְנֵי עַצְמוֹ.

Rather, the Gemara retracts its previous explanation. **Rabbi Ḥiyya bar Abba says** that **Rabbi Yoḥanan says: This is the reason** for the opinion **of Rabbi Meir: As the verse states: "And the Jordan was to be its border on the east side.** This was the inheritance of the children of Benjamin, by its borders round about, according to their families" (Joshua 18:20). Here, **the verse renders** the Jordan River as **a border in and of itself.**

אֶלָּא מֵעַתָּה: ״וְתָאַר הַגְּבוּל״ ״וְעָלָה הַגְּבוּל״ – הָכִי נַמִי הַכָּתוּב עֲשָׂאוֹ גְּבוּל בִּפְנֵי עַצְמוֹ!

The Gemara raises a difficulty: But **if that is so,** should one say that the demarcation of the land allotted to each tribe has the status of a border? Consider the verse: "**And the border was drawn** and turned about on the west side southward, from the mountain that lies before Beit Horon southward; and its goings out were at Kiriath Ba'al, which is Kiriath Jearim, a city of the children of Judah; this was the west side" (Joshua 18:14). And consider the verse: "**And the border went up** to the side of Jericho on the north, and went up through the hill country westward; and its goings out were at the wilderness of Beit Aven" (Joshua 18:12). Here **also, the verse** apparently **renders** each of these places **a border by itself.** If so, flocks on either side should not combine for purposes of tithing.

שָׁאנֵי הָתָם, דְּאָמַר קְרָא: ״זֹאת תִּהְיֶה לָכֶם הָאָרֶץ לִגְבֻלֹתֶיהָ סָבִיב״ – כּוּלָּהּ אֶרֶץ יִשְׂרָאֵל גְּבוּל אֶחָד הִיא.

The Gemara answers: **There,** with regard to the demarcation of each inheritance, it **is different, as the verse states:** "And the border shall go down to the Jordan, and its goings out shall be at the Dead Sea; **this shall be your land according to its borders round about**" (Numbers 34:12). This teaches that **all of Eretz Yisrael is** considered to be within **one border,** notwithstanding the demarcations of each inheritance within.

אִי הָכִי, יַרְדֵּן נַמִי! ״אֶרֶץ״ וְלֹא יַרְדֵּן.

The Gemara raises a further difficulty: **If so, the Jordan** River **also** should not be considered a border with regard to animal tithes. The Gemara explains that the verse states: "This shall be your **land,**" which is referring to those parts of land that are connected, **but not** to areas separated by the **Jordan** River, which is not land but water.

בְּשִׁלְמָא לְרַבִּי חִיָּיא בַּר אַבָּא – הַיְינוּ דְּקָתָנֵי יַרְדֵּן, אֶלָּא לְרַבִּי אַמִּי – לֵיתְנִינְהוּ לְכוּלְּהוּ נְהָרוֹת! קַשְׁיָא.

The Gemara asks: **Granted, according to Rabbi Ḥiyya bar Abba,** who maintains that the ruling of Rabbi Meir is a Torah edict, **this** is the reason **that the** *tanna* **teaches: The Jordan** River divides between animals on two sides of the river with regard to animal tithe. **But according to Rabbi Ami,** who holds that the Jordan River serves as a partition because the animals are unable to cross from one side to the other, **let** Rabbi Meir **teach** his principle **with regard to all rivers** that cannot be crossed. They should all divide flocks with regard to animal tithe. The Gemara comments: This is **difficult.**

לֵימָא כְּתַנָּאֵי: ״כִּי אַתֶּם עֹבְרִים אֶת הַיַּרְדֵּן אַרְצָה כְּנָעַן״, ״אַרְצָה״ – אֶרֶץ כְּנָעַן, וְלֹא הַיַּרְדֵּן אֶרֶץ כְּנָעַן, דִּבְרֵי רַבִּי יְהוּדָה בֶּן בְּתֵירָה.

The Gemara suggests: **Let us say** that the question of whether or not the Jordan River is part of Eretz Yisrael is **the subject of** a dispute between ***tanna'im,*** as it is taught in a *baraita*: The verse states: "Speak to the children of Israel, and say to them: **When you pass over the Jordan into the land of Canaan**" (Numbers 35:10). The term "**into the land**" indicates that **the land of Canaan** is considered part of Eretz Yisrael, **but the Jordan** River itself **is not** considered part of **the land of Canaan;** this is **the statement of Rabbi Yehuda ben Beteira.**

LANGUAGE

Counties [*avtilaot*] – אַבְטִילָאוֹת: Apparently, the original word was *avtoniot*; see the *Tosefta* and the Jerusalem Talmud (*Megilla* 1:1). It comes from the Greek **αὐτονομία**, *autonomia*, meaning an independent territory governed by its own laws.

BACKGROUND

Namer and Namori – נָמֵר וְנָמוֹרִי: Namer is apparently the biblical Nimrah (see Numbers 32:3), which was called Beit Namer in talmudic times (see *Pe'a* 4:3) and is known nowadays in Arabic as Wadi Nimrin. It is a city on the eastern bank of the Jordan River, northeast of the city of Jericho. Consequently, Namori must also be in that area, but no precise location is known.

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BACKGROUND

The Jordan issues forth from the Cave of Pamyas – יַרְדֵּן יוֹצֵא מִמְּעָרַת פַּמְיֵס: The Cave of Pamyas, known in Greek as Πανειάς, *Paneias*, and nowadays named Banias, is near the source of the Jordan River and close to the ancient city of Dan. Today the Banias River does not emerge from the Cave of Pamyas; apparently the source of the river has altered since talmudic times.



Banias

Sea of Sivkhi – יַמָּה שֶׁל סִיבְכִי: This refers to Lake Hula, a large lake in the Hula Valley in northern Israel which was drained in the 1950s. In the 1990s some of the area was reflooded in an effort to partially restore the preexisting habitat for the area's diverse and unique wildlife.



Lake Hula today

Great Sea – יָם הַגָּדוֹל: The Great Sea referred to in the Gemara is the Mediterranean Sea. It is unclear whether the description here is referring to the reality of the physical world or to a transcendent reality. According to the description here, the Jordan River continues underground to the Mediterranean.

רַבִּי שִׁמְעוֹן בֶּן יוֹחַאי אוֹמֵר: הֲרֵי הוּא אוֹמֵר ״מֵעֵבֶר לְיַרְדֵּן יְרֵחוֹ קֵדְמָה מִזְרָחָה״, מַה יְּרֵחוֹ – אֶרֶץ כְּנַעַן, אַף יַרְדֵּן – אֶרֶץ כְּנַעַן.

Rabbi Shimon ben Yoḥai says: The verse **states** with regard to the portions of the tribes of Reuben, Gad, and half of Manasseh: "The two tribes and the half tribe have received their inheritance **beyond the Jordan at Jericho eastward, toward the sunrise"** (Numbers 34:15). **Just as Jericho** is part of **the land of Canaan, so too, the Jordan** River is part of **the land of Canaan.**

אָמַר רַבָּה בַּר בַּר חָנָה אָמַר רַבִּי יוֹחָנָן: אֵין ״יַרְדֵּן״ אֶלָּא מִבֵּית יְרֵחוֹ וּלְמַטָּה. לְמַאי הִלְכְתָא? אִילֵימָא לְנוֹדֵר – הַלֵּךְ אַחַר לְשׁוֹן בְּנֵי אָדָם, וְכָל הֵיכָא דְּקָרוּ לֵיהּ ״יַרְדֵּן״ אִיתְּסַר לֵיהּ! אֶלָּא לְמַעְשַׂר בְּהֵמָה.

§ **Rabba bar bar Ḥana says** that **Rabbi Yoḥanan says:** The river is called **Jordan only from Beit Jericho and below,** i.e., to the south. The Gemara asks: **With regard to what *halakha*** is this statement relevant? **If we say** it is relevant **for one who takes a vow,** e.g., that water from the Jordan River is forbidden to him, this cannot be so, as there is a principle with regard to vows that one must **follow** the ordinary **language of people.** The meaning of a vow is interpreted in accordance with the manner in which the words are used in common speech. **And** therefore, **anywhere that** most people **call** the river by the name **Jordan, it is prohibited for him** to drink from it, regardless of whether it is north or south of Beit Jericho. **Rather,** the Gemara explains that Rabbi Yoḥanan's statement is relevant **for animal tithe.**

תַּנְיָא נַמִּי הָכִי: יַרְדֵּן יוֹצֵא מִמְּעָרַת פַּמְיֵס, וּמְהַלֵּךְ בְּיַמָּה שֶׁל סִיבְכִי, וּבְיַמָּה שֶׁל טְבֶרְיָא, וּבְיַמָּה שֶׁל סְדוֹם, וְהוֹלֵךְ וְנוֹפֵל לַיָּם הַגָּדוֹל, וְאֵין ״יַרְדֵּן״ אֶלָּא מִבֵּית יְרֵחוֹ וּלְמַטָּה.

According to the opinion of Rabbi Meir the Jordan River acts as a partition only south of Beit Jericho, but north of that point it is not a partition. The Gemara notes: **That is also taught** in a *baraita*: The **Jordan** River **issues forth from the Cave of Pamyas**[B] **and flows via the Sea of Sivkhi,**[B] i.e., Lake Hula, **and via the Sea of Tiberias,** i.e., the Sea of Galilee, **and via the Sea of Sodom,** i.e., the Dead Sea, **and continues and falls** down **to the Great Sea.**[B] **But it is** called **Jordan only from Beit Jericho and below,**[N] i.e., to the south.

אָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: לָמָּה נִקְרָא שְׁמוֹ ״יַרְדֵּן״ – שֶׁיּוֹרֵד מִדָּן. אָמַר לֵיהּ רַבִּי אַבָּא לְרַב אַשִׁי: אַתּוּן מֵהָתָם מַתְנִיתוּ לָהּ, אֲנַן מֵהָכָא מַתְנִינַן לָהּ: ״וַיִּקְרְאוּ לוֹ לְלֶשֶׁם דָּן בְּשֵׁם דָּן אֲבִיהֶם״, וְאָמַר רַבִּי יִצְחָק: לֶשֶׁם זוֹ פַּמְיֵס, וְתַנְיָא: יוֹצֵא יַרְדֵּן מִמְּעָרַת פַּמְיֵס.

Rabbi Ḥiyya bar Abba says that **Rabbi Yoḥanan says: Why is** the river **called Jordan? Because it descends** [*yored*] **from** the city of **Dan. Rabbi Abba said to Rav Ashi: You learned** that the Jordan River emerges from the territory of Dan **from there,** i.e., from its name. **We learn it from here:** "And the border of the children of Dan went out from them; and the children of Dan went up and fought against Leshem, and took it, and smote it with the edge of the sword, and possessed it, and dwelt there, **and called Leshem: Dan, after the name of Dan their father"** (Joshua 19:47). **And Rabbi Yitzḥak says** that **this Leshem** is a city that was known in the talmudic period as **Pamyas. And it is taught** in a *baraita* that **the Jordan** River **emerges from the Cave of Pamyas.**

אָמַר רַב כָּהֲנָא: זִכְרוֹתֵיהּ דְּיַרְדְּנָא מִמְּעָרַת פַּמְיֵס; הֵיכָא דְּאָמַר: ״לָא שָׁתֵינָא מַיִם מִמְּעָרַת פַּמְיֵס״ – אִיתְּסַר לֵיהּ בְּכוּלֵּיהּ יַרְדְּנָא.

Rav Kahana says: The source of the Jordan River is **from the Cave of Pamyas.** Therefore, in a case **where** one **says: I will not drink water from the Cave of Pamyas, it is prohibited for him** to drink water **from the entire Jordan** River.

זַכְרוּתָא דְּדָמָא – כַּבְדָּא; כִּדְרַבִּי יִצְחָק, דְּאָמַר רַבִּי יִצְחָק: כָּבֵד שֶׁנִּימּוֹחַ – מְטַמֵּא בִּרְבִיעִית.

Rav Kahana also states: **The source of blood is the liver.** The halakhic ramification of this observation is **in accordance with** a statement **of Rabbi Yitzḥak, as Rabbi Yitzḥak says: A liver that dissolved,** i.e., a decomposed liver from a corpse, **imparts** ritual **impurity** if it has the volume **of a quarter-*log***, which is the minimum amount of blood that imparts ritual impurity.

NOTES

It is called Jordan only from Beit Jericho and below – אֵין יַרְדֵּן אֶלָּא מִבֵּית יְרֵחוֹ וּלְמַטָּה: The early commentaries ask: Why is only the southern portion of the Jordan River, from Jericho to the Dead Sea, referred to as the Jordan? In what way does that part of the river differ from the upper part? Rashi explains that the water of the upper section of the river mixes with water from the large lakes, as explained in the *baraita*, and therefore it loses its importance. Only the lower portion of the river consists solely of the water of the Jordan. *Tosafot* raise many difficulties with Rashi's explanation, including the fact that the Jordan already flows alone north of Jericho. Therefore, *Tosafot* explain that this claim of Rabbi Yoḥanan is based on that which was stated earlier, that the Jordan River is considered the border of Benjamin, as the eastern border of Benjamin runs from Jericho to the Dead Sea.

It should be noted that Beit Jericho is probably not the city of Jericho. Rather, it is Beit Yeraḥ, which is just south of the Sea of Galilee, near the source of the Jordan near modern Degania (see Jerusalem Talmud, *Megilla* 1:1). This fits well with Rashi's explanation, as north of that point the Jordan flows into Lake Hula and the Sea of Galilee, and therefore it can be said that it does not flow alone until Beit Yeraḥ.

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זַכְרוּתָא דְּמַיָּא – פְּרָת; דְּאָמַר רַב יְהוּדָה אָמַר רַב: הַנּוֹדֵר מִמֵּימֵי פְּרָת – אָסוּר בְּכָל מֵימוֹת שֶׁבָּעוֹלָם.

Rav Kahana also states: **The source of** all **the water** in the world is the **Euphrates** River. The halakhic ramification of this is in accordance with a statement of Rav Yehuda, **as Rav Yehuda says** that **Rav says:** With regard to **one who takes a vow** rendering **the waters of the Euphrates** River forbidden[H] to him, **it is prohibited** for him to drink **from any water in the world.**

הֵיכִי דָּמֵי? אִילֵּימָא דְּאָמַר: ״לָא שָׁתֵינָא מִמֵּימֵי דִּפְרָת״ – מֵי פְּרָת הוּא דְּלָא שָׁתֵינָא, הָא מִנַּהֲרָא אַחֲרִינָא – שָׁתֵינָא!

The Gemara asks: **What are the circumstances** in which it is prohibited to drink from any water in the world? **If we say** this is a case **where he says: I will not drink from the water of the Euphrates** River, **it is** only **the waters of the Euphrates** River **that he may not drink,** whereas **he may drink** water **from another river,** since one follows the ordinary language of people.

אֶלָּא דְּאָמַר: ״לָא שָׁתֵינָא מִמַּיִם דְּאָתוּ מִפְּרָת״; דְּאָמַר רַב יְהוּדָה אָמַר רַב: כָּל הַנְּהָרוֹת – לְמַטָּה מִשָּׁלֹשׁ נְהָרוֹת, וְשָׁלֹשׁ נְהָרוֹת – לְמַטָּה מִפְּרָת. וְהָאֵיכָא

Rather, it is referring to a case **where he says: I will not drink from** any **water that comes from the Euphrates** River. It is prohibited for him to drink any water at all, **as Rav Yehuda says** that **Rav says: All the rivers are below,** i.e., they receive their waters **from, three rivers:** The Pishon, the Gihon, and the Tigris (see Genesis 2:11–14). **And** these **three rivers are below** and receive their waters **from the Euphrates** River. The Gemara asks: **But there are**

HALAKHA

One who takes a vow rendering the waters of the Euphrates River forbidden – הַנּוֹדֵר מִמֵּימֵי פְּרָת: In the case of one who takes a vow rendering water that flows from a specific spring forbidden to him, it is prohibited for him to derive benefit from any river whose water comes from that spring, even if the water of that river is called by the name of the river rather than the name of the specified spring. If one took a vow rendering the waters of a specific river or spring forbidden to him, then only the waters of that river or that spring, which are called by that name, are prohibited. This is in accordance with the Gemara's explanation of the statement of Rav Yehuda citing Rav (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 9:18; *Shulḥan Arukh*, *Yoreh De'a* 217:25).

Perek **IX**
Daf **55** Amud **b**

עֵינָתָא דְּמִידַּלְיָין! אֲמַר רַב מְשַׁרְשִׁיָא: הָנְהוּ סוּלְמֵי דִּפְרָת נִינְהוּ.

springs that are higher in the mountains than the Euphrates; how can their water come from the Euphrates? **Rav Mesharshiyya said: These are ladders of the Euphrates,** i.e., the waters of the Euphrates seep through the ground and are drawn upward to emerge from these springs.

וְהָא כְּתִיב: ״וְהַנָּהָר הָרְבִיעִי הוּא פְּרָת״!

The Gemara asks: **But isn't it written:** "And a river went out of Eden to water the garden; and from there it was separated, and became four heads… And the name of the third river is Tigris; that is the one that goes toward the east of Ashur. **And the fourth river is the Euphrates**" (Genesis 2:10, 14)? This indicates that the Euphrates, which is mentioned last, is the least of the four rivers, not the source of the other three.

אֲמַר רַב נַחְמָן בַּר יִצְחָק, וְאִיתֵימָא רַב אַחָא בַּר יַעֲקֹב: הוּא פְּרָת דְּמֵעִיקָּרָא.

Rav Naḥman bar Yitzḥak said, and some say it was **Rav Aḥa bar Ya'akov** who said: **It is the Euphrates that** the verse mentions **initially** as the river that went out of Eden, which divided into all the other rivers. After the other three branched out from it, the Euphrates continued to flow.

תַּנְיָא, רַבִּי מֵאִיר אוֹמֵר: ״יוּבַל״ שְׁמוֹ, שֶׁנֶּאֱמַר: ״וְהָיָה כְּעֵץ שָׁתוּל עַל מַיִם וְעַל יוּבַל יְשַׁלַּח שָׁרָשָׁיו״, וְלָמָּה נִקְרָא שְׁמוֹ ״פְּרָת״ – שֶׁמֵּימָיו פְּרִים וְרָבִים.

It **is taught** in a *baraita* that **Rabbi Meir says: Yuval is the name of** the Euphrates River where it emerges from Eden, **as it is stated: "For he shall be as a tree planted by the waters, and that spreads out its roots by the river** [*yuval*], and shall not see when heat comes, but its foliage shall be luxuriant; and shall not be anxious in the year of drought, neither shall cease from yielding fruit" (Jeremiah 17:8). **And why is it named Euphrates** [*perat*]**? Because its waters are fruitful** [*parim*] **and multiply** without the need for rainfall.

מְסַיַּיע לֵיהּ לִשְׁמוּאֵל, דְּאָמַר שְׁמוּאֵל: נַהֲרָא מְבֵּיפְיֵהּ מִיבְּרִיךְ; וּפְלִיגָא דְּרַב, דְּאָמַר רַב אַמִּי אָמַר רַב: מִיטְרָא בְּמַעֲרָבָא – סָהֲדָא רַבָּה פְּרָת.

The Gemara adds that this **supports** the opinion **of Shmuel, as Shmuel says: The river is blessed from its riverbed;**[B] the additional water in the river is not from rainfall but rather from subterranean sources. **And** this statement **disagrees** with the opinion **of Rav, as Rav Ami says** that **Rav says:** When **rain** falls **in the West,**[B] Eretz Yisrael, **the great witness** attesting to that fact is **the Euphrates,** as the water flow in the Euphrates increases after the rainy season.

BACKGROUND

The river is blessed from its riverbed – נַהֲרָא מְבֵּיפְיֵהּ מִיבְּרִיךְ: In the rainy season the amount of water in a river increases. Although a great deal of this increase is due to rainwater that flows directly into the river from the surrounding mountains and streams, the river is also augmented by water that penetrates the earth and flows into the underground aquifers to emerge as spring water.

When rain falls in the West – מִיטְרָא בְּמַעֲרָבָא: The Euphrates River is mentioned in the Torah as the northern border of Eretz Yisrael (see Deuteronomy 11:24). This apparently refers to that section of the river that flows from Zobah; see the verse: "David also killed Hadadezer, son of Rehob, king of Zobah, as he went to establish his dominion at the Euphrates River" (II Samuel 8:3).

There is a correlation between the amount of rainfall in Eretz Yisrael and the amount of water in the drainage basin of the Euphrates. The sources of the river are in the Armenian mountains, and from there the water flows westward though northern Syria, near Aleppo, which is the biblical Aram Zobah. Therefore, the increased water level in the Euphrates is a sign of increased rainfall in Eretz Yisrael.

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אֲבוּהּ דִּשְׁמוּאֵל עָבֵיד לְהוּ לִבְנָאתֵיהּ מִקְוֶה בְּיוֹמֵי נִיסָן, וּמַפְּצֵי בְּיוֹמֵי תִּשְׁרֵי; מִקְוֶה בְּיוֹמֵי נִיסָן – סָבַר לָהּ כְּרַב, דְּאָמַר רַב אַמִּי אָמַר רַב: מִיטְרָא בְּמַעֲרָבָא – סָהֲדָא רַבָּה פְּרָת; שֶׁמָּא יִרְבּוּ נוֹטְפִין עַל הַזּוֹחֲלִין, וְהָווּ לְהוּ מֵי גְּשָׁמִים רוֹבָּא.

The Gemara relates that **Shmuel's father**[P] **fashioned**[N] **a ritual bath for his daughters during the days of Nisan, and** placed **mats**[B] in the Euphrates River **during the days of Tishrei**[N] when his daughters immersed in the river. He fashioned **a ritual bath during the days of Nisan,** because **he holds in accordance with** the opinion of **Rav, as Rav Ami says** that **Rav says:** When **rain** falls **in the West, the great witness** attesting to that fact is **the Euphrates.** Shmuel's father was concerned that **perhaps** the rainwater and snow water **that fell** and accumulated in the river **would exceed** the amount of naturally **flowing** spring water that originated in the river's sources, **and the** flowing **rainwater would be the majority.** Rainwater purifies only when it is collected; it does not purify when it is flowing. Therefore, Shmuel's father fashioned ritual baths of standing water for his daughters.

וּמַפְּצֵי בְּיוֹמֵי תִּשְׁרֵי.

And he placed **mats during the days of Tishrei,** when his daughters immersed in the river itself, to give them privacy. During Tishrei the waters of the Euphrates do not come from rainwater; rather, the waters are from the river itself, and therefore immersion is valid even when that water is flowing.

וּפְלִיגָא דִּידֵיהּ אַדִּידֵיהּ, דְּאָמַר שְׁמוּאֵל: אֵין הַמַּיִם נִטְהָרִים בְּזוֹחֲלִין אֶלָּא פְּרָת בְּיוֹמֵי תִּשְׁרֵי.

The Gemara notes: **And** this statement **of** Shmuel's, that the additional water in the Euphrates is not from rainfall but from subterranean sources, **disagrees** with another ruling that he **himself** issued.[N] **As Shmuel says: Waters purify when flowing,** i.e., when they are not collected into a ritual bath, **only** in the **Euphrates during the days of Tishrei.**[B] Since rain does not fall in the summer, only after the summer, in Tishrei, is it clear that the water one is immersing in is in fact river water.

מתני׳ הַלּוֹקֵחַ אוֹ שֶׁנִּיתַּן לוֹ בְּמַתָּנָה – פָּטוּר מִמַּעֲשֵׂר בְּהֵמָה.

MISHNA **One who purchases** an animal **or** has an animal **that was given to him as a gift**[H] is **exempt from** separating **animal tithe.**

גמ׳ מְנָא הָנֵי מִילֵּי? אָמַר רַב כָּהֲנָא, דְּאָמַר קְרָא: "בְּכוֹר בָּנֶיךָ תִּתֶּן לִי כֵּן תַּעֲשֶׂה לְשֹׁרְךָ לְצֹאנֶךָ".

GEMARA The Gemara asks: **From where is this matter** derived? **Rav Kahana says that the verse states:** "You shall not delay to offer of the fullness of your harvest, and of the outflow of your presses. **The firstborn of your sons you shall give to Me. So you shall do with your oxen, and with your sheep:** Seven days it shall be with its mother; on the eighth day you shall give it to Me" (Exodus 22:28–29).

PERSONALITIES

Shmuel's father – אֲבוּהּ דִּשְׁמוּאֵל: This is the important Sage Abba bar Abba, generally referred to by the Gemara as the father of the great *amora* Shmuel. Abba bar Abba, who traveled extensively as a silk merchant, spent some time in Eretz Yisrael and developed close ties with Rabbi Yehuda HaNasi and his sons.

NOTES

Shmuel's father fashioned, etc. – אֲבוּהּ דִּשְׁמוּאֵל עָבֵיד וכו׳: The Torah mentions two types of purifying waters: A spring and a pit, i.e., a ritual bath. There are many halakhic differences between these two, one of which is that the water of a ritual bath must be gathered in a single place, whereas a spring can consist of flowing water. Shmuel's father was concerned that the river might contain a majority of rainwater, which purifies only when it is gathered, and therefore he fashioned a ritual bath for his daughters adjacent to the river, to avoid the risk of invalid immersion in flowing rainwater.

And mats during the days of Tishrei – וּמַפְּצֵי בְּיוֹמֵי תִּשְׁרֵי: Rabbeinu Tam explains that it was for reasons of modesty that Shmuel's father erected mats around the place where his daughters immersed (see *Tosafot* and Rambam). According to others, the mats were for his daughters to stand on because he was concerned that the mud from the river might become stuck between their toes and be considered an interposition that would invalidate the immersion (Rashi). Others add that as there is less water in the river during Tishrei, they had to dig the river deeper where they immersed, which is why there was a lot of mud there (see *Otzar HaGe'onim* on *Nedarim* 40b).

And this statement of Shmuel's disagrees with another ruling that he himself issued – וּפְלִיגָא דִּידֵיהּ אַדִּידֵיהּ: Some of the early commentaries write that the two statements of Shmuel are not necessarily contradictory. His claim that the river is blessed from the riverbed does not necessarily mean that all the river water comes from springs. It is possible that he simply disagrees with Rav and holds that the increase in the size of the river is not only from rainwater, although in practice he, too, is concerned that there is a lot of water coming from outside sources (Rashba; Ritva).

HALAKHA

One who purchases an animal or has one that was given to him as a gift – הַלּוֹקֵחַ אוֹ שֶׁנִּיתַּן לוֹ בְּמַתָּנָה: Lambs that were already born and then were purchased or received as a gift are exempt from animal tithe. One is required to tithe only animals that were born in his possession (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:10).

BACKGROUND

Mats – מַפְּצֵי: This refers to a type of woven reed mat. Whereas a regular mat was woven from whole reeds, this type of mat was apparently fashioned from pieces of reed. For this reason it was softer than a regular reed mat. It was harder than a leather surface, which is why leather was the preferred surface for sitting on.

The Euphrates during the days of Tishrei – פְּרָת בְּיוֹמֵי תִּשְׁרֵי: There are clear differences in the flow of the Euphrates in different seasons. During the winter it rises due to rainwater. In the spring it rises due to snow melting near the source of the river. Only at the end of the summer, in Tishrei, does the Euphrates flow solely from its own sources.



Euphrates River

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מַה בְּנֶיךָ – אֵין בְּלָקוּחַ וּבְמַתָּנָה, אַף צֹאנְךָ וּבְקָרֶךָ – אֵינוֹ בְּלָקוּחַ וּבְמַתָּנָה.

Just as the redemption of **your** firstborn **son** does **not** apply to a child who was **purchased or** received **as a gift,** i.e., the mitzva applies only to one's own son, **so too,** the mitzva of separating tithe from **your flock and your herd** does **not** apply **to** animals that were **purchased or** received **as a gift.**

וְהַאי בְּבְכוֹר כְּתִיב! אָמַר קְרָא: "כֵּן תַּעֲשֶׂה", אִם אֵינוֹ עִנְיָן לִבְכוֹר דְּלָא אִיתֵּיהּ בַּעֲשָׂיָיה, דְּבָרֶיהָם קָדוֹשׁ – תְּנֵהוּ עִנְיָן לְמַעְשַׂר בְּהֵמָה.

The Gemara raises a difficulty: **But this** verse, which juxtaposes the firstborn son to an animal, **is written with regard to** redemption of **a firstborn,** not with regard to animal tithe. The Gemara explains that **the verse states: "So you shall do** with your oxen, and with your sheep: Seven days it shall be with its mother; on the eighth day you shall give it to Me" (Exodus 22:29). **If** this **is not** needed **for** the **matter of firstborn** animals, **which do not** require **any action** to sanctify them **as** the animal is already **consecrated when** it leaves **the womb, apply it to the matter of animal tithe,** where an animal is sanctified only when the owner counts it as the tenth animal.

וְאֵימָא: תְּנֵהוּ עִנְיָן לְחַטָּאת וּלְאָשָׁם! דִּומְיָא דִּבְנְךָ, מַה בִּנְךָ – שֶׁאֵינוֹ בָּא עַל חֵטְא, אַף צֹאנְךָ וּשׁוֹרֶךָ – שֶׁאֵינוֹ בָּא עַל חֵטְא.

The Gemara suggests: **But** instead one can **say** to **apply** this phrase: "So you shall do," to **the matter of a sin offering and a guilt offering** rather than animal tithe, i.e., one should derive that these offerings are sanctified only if they originally belonged to the individual who is attempting to sanctify them, not if they are purchased or received as a gift. The Gemara explains that one expounds the phrase as referring to animal tithe because that case is **similar to** the case of: **Your son. Just as your son does not come** to be redeemed to atone **for a sin, so too,** the phrase: **Your sheep and your oxen,** discussed in the verse, is referring to animal tithe, **which does not come** to the Temple to atone **for a sin.** Sin offerings and guilt offerings are brought only if one commits a sin.

וְאֵימָא: תְּנֵהוּ עִנְיָן לְעוֹלָה וּלְשְׁלָמִים! דִּומְיָא דִּבְנְךָ, מַה בִּנְךָ – שֶׁאֵינוֹ בָּא בְּנֶדֶר וּנְדָבָה, אַף צֹאנְךָ וּשׁוֹרֶךָ כּוֹ'.

The Gemara suggests: **But** instead one can **say** to **apply** this phrase to **the matter of a burnt offering and a peace offering,** which can be brought even if one has not sinned, like the animal tithe. The Gemara explains that one expounds the phrase as referring to animal tithe because that case is **similar to** the case of: **Your son. Just as your son cannot come** in the form **of a vow or a gift, so too,** the phrase: **Your sheep and your oxen,** discussed in the verse, is referring to animal tithe, which cannot be brought as a vow or as a gift. It is not referring to a burnt offering or a peace offering, both of which can be brought as a vow or as a gift.

וְאֵימָא: תְּנֵהוּ עִנְיָן לְעוֹלַת רְאִיָּיה! דִּומְיָא דִּבְנְךָ, מַה בִּנְךָ – שֶׁאֵין קָבוּעַ לוֹ זְמָן, אַף שׁוֹרֶךָ וְצֹאנְךָ – שֶׁאֵין קָבוּעַ לוֹ זְמָן.

The Gemara suggests: **But** one can **say** instead that one should **apply** this phrase to **the matter of a burnt offering of appearance,** which one brings when he ascends to Jerusalem on one of the three pilgrimage Festivals. This offering is not brought for a sin, nor as a vow or a gift, as it is obligatory. The Gemara explains that one expounds the phrase as referring to animal tithe because that case is **similar to** the case of: **Your son. Just as your son does not have a fixed time** of year to be redeemed, but is redeemed after the thirtieth day from his birth, **so too: Your oxen and your sheep,** discussed in the verse, is referring to animal tithe, **which does not have a fixed time** to be brought. By contrast, the burnt offering of appearance is brought only on the three pilgrimage Festivals.

אִי מַה בִּנְךָ – אֵינוֹ בְּלָקוּחַ כְּלָל, אַף שׁוֹרְךָ וְצֹאנְךָ – אֵינוֹ בְּלָקוּחַ כְּלָל! אַלְמָּה אָמַר רַבִּי אַסִי אָמַר רַבִּי יוֹחָנָן: לָקַח עֲשָׂרָה עוּבְּרִין בִּמְעֵי אִמָּן – כּוּלָּם נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר?

The Gemara asks: **If** the *halakha* of the tithing of a purchased animal is derived from the juxtaposition to the mitzva of redemption of a firstborn son, then all the *halakhot* of one should apply to the other: **Just as your** firstborn **son cannot be purchased at all,** under any circumstances, **so too, your oxen and your sheep** should **not be** subject to animal tithe if they are **purchased at all.** If so, **why** does **Rabbi Asi say** that **Rabbi Yoḥanan says:** If one **purchased ten** animal **fetuses** while they were still **in their mothers' wombs**[H] and the animals were born once he already owned them, **they all enter the pen to be tithed?** If the *halakha* is derived from a firstborn son, there should be no concept of tithe in the case of purchased animals.

HALAKHA

If one purchased ten animal fetuses in their mothers' wombs – לָקַח עֲשָׂרָה עוּבְּרִין בִּמְעֵי אִמָּן: If one purchases ten unborn lambs they must all be brought to the pen to be tithed. This *halakha* is in accordance with the opinion of Rabbi Asi, citing Rabbi Yoḥanan (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:12).

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אָמַר רָבָא: אָמַר קְרָא ״תַּעֲשֶׂה״ – בְּשָׁעַת עֲשִׂיָּיה מִיעֵט הַכָּתוּב.

Rava said in response that **the verse states:** "So **you shall do** with your oxen, and with your sheep: Seven days it shall be with its mother; on the eighth day you shall give it to Me." **The verse excludes** purchased animals from animal tithe only **at the time of doing,** i.e., from the time the animals are fit to be sacrificed in the Temple, not while they are still in their mothers' wombs, as at that time they are as yet unfit to be sacrificed on the altar.

גּוּפָא, אָמַר רַבִּי אַסִי אָמַר רַבִּי יוֹחָנָן: לָקַח עֲשָׂרָה עוּבָּרִים בִּמְעֵי אִמָּן – כּוּלָּן נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר. וְהָא אֲנַן תְּנַן: הַלּוֹקֵחַ אוֹ שֶׁנִּיתַּן לוֹ בְּמַתָּנָה – פָּטוּר מִן מַעְשַׂר בְּהֵמָה!

The Gemara discusses **the** matter **itself,** to cite the relevant discussion in full. **Rabbi Asi says** that **Rabbi Yoḥanan says:** If one **purchased ten** animal **fetuses** while they were still **in their mothers' wombs** and the animals were born once he already owned them, **they all enter the pen to be tithed.** The Gemara asks: **But didn't we learn** in the mishna: **One who purchases** an animal **or** has an animal **that was given to him as a gift** is **exempt from animal tithe?** If so, why isn't the owner of these fetuses also exempt from animal tithe?

אָמַר רַבִּי אֶלְעָזָר: רַבִּי יוֹחָנָן חֲזַאי בְּחֶילְמָא – מֵילְתָא מְעַלְיָא אָמְרִינָא; אָמַר קְרָא ״תַּעֲשֶׂה״ – בְּשָׁעַת עֲשִׂיָּיה מִיעֵט הַכָּתוּב. אֵיתִיבֵיהּ רַבִּי שִׁמְעוֹן בֶּן אֶלְיָקִים לְרַבִּי אֶלְעָזָר: הַלָּקוּחַ חָל עַל מְחוּסַּר זְמַן!

Rabbi Elazar said: I saw Rabbi Yoḥanan[P] **in a dream,** which is a sign that **I am saying a proper matter** in explaining his opinion. **The verse states:** "So **you shall do"** (Exodus 22:29); **the verse excludes** purchased animals from animal tithe only **at the time of doing,** i.e., from the time the animals are fit to be sacrificed in the Temple. **Rabbi Shimon ben Elyakim raised an objection to Rabbi Elazar** from a *baraita*: The exemption of **a purchased** animal **applies** even **to** an animal **whose time has not yet** arrived,[H] i.e., before it is eight days old and fit to be sacrificed in the Temple. By the same token, the exemption should also apply to a fetus, despite the fact that it is not yet fit to be sacrificed.

אָמַר לֵיהּ: זוֹ אֵינָהּ מִשְׁנָה, וְאִם תֹּאמַר לוֹמַר מִשְׁנָה – רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה הִיא מִשּׁוּם רַבִּי שִׁמְעוֹן, דְּאָמַר: מְחוּסַּר זְמַן נִכְנָס לַדִּיר לְהִתְעַשֵּׂר, וַהֲרֵי הוּא כִּבְכוֹר, מַה בְּכוֹר – קָדוֹשׁ לִפְנֵי זְמַנּוֹ וְקָרֵב לְאַחַר זְמַנּוֹ, אַף מְחוּסַּר זְמַן – קָדוֹשׁ לִפְנֵי זְמַנּוֹ וְקָרֵב לְאַחַר זְמַנּוֹ.

Rabbi Elazar **said to** Rabbi Shimon ben Elyakim: **This** *baraita* **is not a tannaitic source** that can be relied upon, as it is not accurate. **And if you say** this *baraita* **is a tannaitic source** that can be relied upon, **it is** only in accordance with the opinion of **Rabbi Shimon ben Yehuda in the name of Rabbi Shimon, who says** that an animal **whose time has not yet** arrived also **enters the pen to be tithed,**[N] **and** in this regard it is **like a firstborn** animal. **Just as a firstborn** animal **is sanctified before its time** arrives to be sacrificed, **but is sacrificed after its time,** i.e., after it is at least eight days old, **so too,** an animal **whose time has not yet** arrived[H] enters the pen to be tithed, and if it comes out as the tenth animal, it **is sanctified before its time** for sacrifice has arrived **but is sacrificed** only **after its time,** i.e., after it is at least eight days old.

HALAKHA

Purchasing an animal whose time has not yet arrived – לָקוּחַ בִּמְחוּסַּר זְמַן: One is required to tithe only animals that were purchased before they became fit to be tithed. Therefore, one who purchases a lamb within seven days of its birth must tithe it after it is eight days old. Since it is unfit to be tithed while it is lacking the requisite time, it is considered as though he purchased an unborn animal that was born in his possession. This ruling is in accordance with the opinion of Rabbi Yoḥanan and in accordance with the opinion of the Rabbis who disagree with Rabbi Shimon (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:15, and see *Kesef Mishne* there).

So too an animal whose time has not yet arrived – אַף מְחוּסַּר זְמַן: It is prohibited to consecrate an animal that is less than eight days old (*Mishne LaMelekh*), but if one does so the animal becomes sanctified. This is similar to one who consecrates an animal with a temporary blemish (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 3:10).

NOTES

It is in accordance with Rabbi Shimon ben Yehuda… also enters the pen to be tithed – רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה הִיא...נִכְנָס לַדִּיר לְהִתְעַשֵּׂר: According to the ruling of the unattributed mishna on 57a that an animal lacking the requisite period of time is not brought into the pen for tithing, a lamb that was purchased before it was eight days old must be tithed, and certainly an animal that was purchased before it was born must be tithed. Rabbi Yoḥanan also agrees with this opinion.

PERSONALITIES

Rabbi Yoḥanan – רַבִּי יוֹחָנָן: This is Rabbi Yoḥanan bar Nappaḥa, one of the greatest *amora'im*, whose statements are fundamental components of both the Babylonian Talmud and the Jerusalem Talmud. He resided in Tiberias and lived to an advanced age.

Rabbi Yoḥanan was orphaned when he was young, and although his family apparently owned considerable property he spent virtually all his resources on his devotion to the study of Torah, until he eventually became impoverished. In his youth he had the privilege of studying under Rabbi Yehuda HaNasi, the redactor of the Mishna, but most of his Torah study was under the tutelage of Rabbi Yehuda HaNasi's students: Ḥizkiyya ben Ḥiyya, Rabbi Oshaya, Rabbi Ḥanina, and Rabbi Yannai, who lavished praise upon him. In time he became the head of the yeshiva in Tiberias, at which point his fame and influence increased greatly. For a long time Rabbi Yoḥanan was the leading rabbinic scholar not only in Eretz Yisrael but in Babylonia as well, where he was respected by the Babylonian Sages. Many of them immigrated to Eretz Yisrael to become his students.

A master of both *halakha* and *aggada*, Rabbi Yoḥanan's statements in both disciplines are found throughout both the Babylonian Talmud and the Jerusalem Talmud. As a testament to his intellectual and spiritual stature, the ruling of *halakha* is in accordance with his opinion in almost every case, even when Rav or Shmuel, the preeminent *amora'im* of Babylonia, whom he treated deferentially, disagree with him. Only in disputes with his teachers in Eretz Yisrael, such as Rabbi Yannai and Rabbi Yehoshua ben Levi, is the *halakha* not decided in accordance with his opinion.

Much is said in praise of Rabbi Yoḥanan's handsome appearance, for which he was renowned. It is also known that his life was full of suffering, as ten of his sons died in his lifetime. There is a geonic tradition that one of his sons who did not predecease him was the Babylonian *amora* Rabbi Mattana. The death of Rabbi Yoḥanan's disciple-colleague and brother-in-law, Reish Lakish, a misfortune for which he considered himself responsible, hastened Rabbi Yoḥanan's own demise.

Rabbi Yoḥanan had many students. In fact, virtually all the *amora'im* of Eretz Yisrael in succeeding generations were his disciples and benefited from his wisdom, to the extent that he is considered the author of the Jerusalem Talmud. His greatest students were his brother-in-law Reish Lakish, Rabbi Elazar, Rabbi Ḥiyya bar Abba, Rabbi Abbahu, Rabbi Yosei bar Ḥanina, Rabbi Ami, and Rabbi Asi.

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תָּנֵי תַּנָּא קַמֵּיהּ דְּרַב: אֵיזֶהוּ אֶתְנָן שֶׁנִּבְנָס לַדִּיר לְהִתְעַשֵּׂר – כָּל שֶׁנָּתַנּוּ לָהּ וְחָזַר וּלְקָחוֹ הֵימֶנָּה. וְהָא אִיפְּסִיל לֵיהּ בְּלוֹקֵחַ!

A *tanna* taught a *baraita* **in the presence of Rav: Which** is the type of animal set aside as **payment** to a prostitute, about which the Sages said (see 57a) **that it enters the pen to be tithed?**[N] **Any** animal **that he gave to her** as payment **and subsequently purchased** back **from her.** The *tanna* asked: **But doesn't it** become **disqualified** from the status of animal tithe **as a purchased** animal, as he purchased it back from the prostitute?

אִישְׁתְּמִיטְּתֵיהּ הָא דְּאָמַר רַבִּי אַסִי אָמַר רַבִּי יוֹחָנָן: לָקַח עֻבָּרָה עוּבָּרִין בִּמְעֵי אִמָּן – כּוּלָּם נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר.

The Gemara answers that **this** statement **escaped** that *tanna*: **As Rabbi Asi says** that **Rabbi Yoḥanan says:** If one **purchased ten** animal **fetuses** while they were still **in their mothers' wombs they all enter the pen to be tithed.** Accordingly, the *baraita* can be understood as referring to an animal that was given to a prostitute as payment and purchased back from her while it was still inside its mother's womb.

NOTES

Which is the animal set aside as payment that it enters the pen to be tithed – אֵיזֶהוּ אֶתְנָן שֶׁנִּבְנָס לַדִּיר לְהִתְעַשֵּׂר: Although it is prohibited to sacrifice an animal used as payment to a prostitute (see Deuteronomy 23:19), with regard to animal tithe the Torah states: "He shall not inquire whether it be good or bad" (Leviticus 27:33). This teaches that even blemished animals, which are unfit for sacrifice, are brought into the pen for tithing, and if a blemished animal emerges as the tenth it is not sacrificed but is eaten by its owner. The Gemara on 57a derives from the verse: "Because their corruption is in them, there is a blemish in them" (Leviticus 22:25), that in any case where a blemished animal is not disqualified, an animal used as payment to a prostitute is also not disqualified.

Perek **IX**
Daf **56** Amud **b**

וְתִיעַשָּׂרָה אִיהִי! בְּזוֹנָה גּוֹיָה.

The Gemara asks: **But** if that is the meaning of the *baraita*, why is it necessary to purchase the animal back from the prostitute for it to be subject to animal tithe? **Let her tithe it** herself, as it is not prohibited as payment to a prostitute, since it was in the womb when he gave it to her. The Gemara answers that the *baraita* is referring **to a gentile prostitute,** to whom the mitzva of tithing animals does not apply.

וְלוֹקְמָהּ בְּזוֹנָה יִשְׂרְאֵלִית, וְתִיעַשָּׂרָה אִיהִי! קָא מַשְׁמַע לָן דְּזוֹנָה יִשְׂרְאֵלִית – לָא הָוֵי אֶתְנָן.

The Gemara challenges: **But let** the *baraita* **establish** this case, of an animal set aside as payment to a prostitute that nevertheless enters the pen to be tithed, as a case **involving a Jewish prostitute, and let** it be referring to a case where **she tithes it** herself. The Gemara explains that this *baraita* **teaches us that** an animal given as payment to **a Jewish prostitute does not** have the halakhic status of **payment** to a prostitute, and is not prohibited for sacrifice.

כִּדְאַבָּיֵי, דְּאָמַר אַבָּיֵי: זוֹנָה גּוֹיָה – אֶתְנַנָּהּ אָסוּר, וְכֹהֵן הַבָּא עָלֶיהָ אֵינוֹ לוֹקֶה מִשּׁוּם ״לֹא יְחַלֵּל זַרְעוֹ״; זוֹנָה יִשְׂרְאֵלִית – אֶתְנַנָּהּ מוּתָּר, וְכֹהֵן הַבָּא עָלֶיהָ לוֹקֶה מִשּׁוּם ״לֹא יְחַלֵּל זַרְעוֹ״.

The Gemara adds that this is **in accordance with** the opinion **of Abaye, as Abaye says:** An animal given to **a gentile prostitute**[H] is considered to be **payment** to a prostitute, which is **prohibited** for sacrifice on the altar. **And a priest who engages in intercourse with** a gentile prostitute **is not flogged due to** the prohibition of: "A widow, or one divorced, or a profaned woman, or a prostitute, these shall he not take, but a virgin of his own people shall he take to wife. **And he shall not profane his seed** among his people, for I am the Lord who sanctifies him" (Leviticus 21:14–15). Conversely, an animal given to **a Jewish prostitute** is not considered **payment** to a prostitute and it is **permitted** to sacrifice it. **But a priest who engages in intercourse with** a Jewish prostitute **is flogged**[H] **due to** the prohibition of: "**And he shall not profane his seed** among his people, for I am the Lord who sanctifies him."

זוֹנָה גּוֹיָה אֶתְנַנָּהּ אָסוּר – גָּמַר ״תּוֹעֵבָה״ ״תּוֹעֵבָה״ מֵעֲרָיוֹת,

The Gemara clarifies Abaye's opinion. An animal given to **a gentile prostitute** is considered **payment** to a prostitute, which is **prohibited** for sacrifice on the altar, as Abaye **derives** a verbal analogy from the word "**abomination**" stated with regard to payment to a prostitute: "You shall not bring the payment of a prostitute, or the price of a dog, into the House of the Lord your God for any vow, for both of these are an abomination to the Lord your God" (Deuteronomy 23:19), and the word "**abomination**" stated **in** the verses discussing **those with whom relations are forbidden:** "For whosoever shall do any of these abominations, the souls that do them shall be cut off from among their people" (Leviticus 18:29).

HALAKHA

An animal given as payment to a gentile prostitute – אֶתְנָן זוֹנָה גּוֹיָה: Payment to a prostitute is prohibited for sacrifice in a case where one said to the prostitute: This is yours as your payment. It is prohibited to bring this animal as an offering whether the prostitute is gentile, a female slave, or a Jewish woman who is forbidden to him by a Torah prohibition. This *halakha* is not in accordance with the opinion of Abaye here but with that of Rava in *Temura* 29b (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 4:8).

A priest who engages in intercourse with her is flogged – כֹּהֵן הַבָּא עָלֶיהָ לוֹקֶה: A priest who engages in intercourse with a gentile is flogged by Torah law, as she has the status of a prostitute. Some maintain that he is flogged only if this woman had previously engaged in intercourse with another man (*Beit Shmuel*, citing *Tosafot* and Rosh). Similarly, a priest who engages in intercourse with a Jewish prostitute is flogged. This ruling is in accordance with the opinion of Rava in *Temura* 29b, and not in accordance with the opinion of Abaye here (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 12:3; *Shulḥan Arukh*, *Even HaEzer* 16:1).

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מָה עֲרָיוֹת – דְּלָא תָּפְסִי בְּהוּ קִדּוּשֵׁי, אַף זוֹנָה – בְּהָךְ דְּלָא תָּפְסִי בָּהּ קִדּוּשֵׁי.

The Gemara elaborates: **Just as** the verses discussing **those with whom relations are forbidden** are referring specifically to those women **upon** whom **betrothal does not take effect, so too,** the **prostitute** referred to in the verse **is one upon** whom **betrothal does not take effect,** i.e., a gentile prostitute.

וְכֹהֵן הַבָּא עָלֶיהָ אֵינוֹ לוֹקֶה מִשּׁוּם ״לֹא יְחַלֵּל זַרְעוֹ״ – דְּלֹא יְחַלֵּל זַרְעוֹ אָמַר רַחֲמָנָא, וְהַאי לָאו זַרְעֵיהּ הוּא.

Abaye further stated: **And a priest who engages in intercourse with her is not flogged due to** the prohibition of: **"And he shall not profane his seed** among his people, for I am the Lord who sanctifies him." The Gemara explains: The reason is that **the Merciful One states that he should not profane his seed,** i.e., his children, **and** any children born from **this** gentile prostitute **are not** considered to be **his seed,** as the children of a gentile mother are gentiles.

מתני׳ הָאַחִין וְהַשּׁוּתָּפִין שֶׁחַיָּבִין בַּקָּלְבּוֹן – פְּטוּרִין מִמַּעֲשֵׂר בְּהֵמָה, חַיָּבִין בְּמַעֲשַׂר בְּהֵמָה – פְּטוּרִין מִן הַקָּלְבּוֹן.

MISHNA With regard to **brothers and partners,**[NH] i.e., brothers who are partners in the inheritance of their father, **when they are obligated to** add **the premium** [***bakalbon***][NLH] to their annual half-shekel payment to the Temple **they are exempt from animal tithe.** Conversely, those whose halakhic status is like that of sons who are supported by their father and **are obligated to** separate **animal tithe are exempt from** adding **the premium.**

קָנוּ מִתְּפִיסַת הַבַּיִת – חַיָּבִין, וְאִם לָאו – פְּטוּרִין. חָלְקוּ חָזְרוּ וְנִשְׁתַּתְּפוּ – חַיָּבִין בַּקָּלְבּוֹן וּפְטוּרִין מִמַּעֲשַׂר בְּהֵמָה.

The mishna clarifies: If the brothers **acquired** the animals through inheritance **from** the property in **the possession of** their father's **house**[H] **they are obligated** in animal tithe; **but if not, they are exempt.** How so? If **they divided** the inheritance between them **and then reentered a partnership,**[H] **they are obligated to** add **the premium and are exempt from animal tithe.**

גמ׳ תָּנוּ רַבָּנַן: ״יִהְיֶה לָךְ״ – וְלֹא שֶׁל שׁוּתָּפוּת. יָכוֹל אֲפִילּוּ קָנוּ בִּתְּפִיסַת הַבַּיִת? תַּלְמוּד לוֹמַר: ״יִהְיֶה״.

GEMARA **The Sages taught** in a *baraita*: The verse states: "That you shall set apart for the Lord all that opens the womb; every firstborn male that emerges from an animal that **shall be yours** belongs to the Lord" (Exodus 13:12). This teaches that the obligation of animal tithe applies only to an animal that belongs to you, i.e., to one owner, **but not** to an animal owned **by partners.** One **might** have thought that the obligation of the tithe does not apply to the animal **even if** brothers **acquired** the animals through inheritance **from** the property in **the possession of** their father's **house.** Therefore, the **verse states: "Shall be,"** to include animals acquired through inheritance in the obligation of animal tithe.

NOTES

Brothers and partners – הָאַחִין וְהַשּׁוּתָּפִין: There is a dispute between the early commentaries with regard to the accurate text of the mishna and its meaning, and this disagreement has halakhic ramifications. Some have a version that reads: The brothers who are partners, without the conjunctive: And. They explain that it is referring to brothers who inherited and divided their father's property, and who subsequently joined together as partners. These brothers have the status of ordinary partners, who are exempt from animal tithe. By contrast, brothers who have not divided their inherited property are not considered partners, but inheritors, who are obligated in animal tithe (Rashi; Rabbeinu Gershom Meor HaGola). The explanation of the Gemara follows this interpretation.

The version of the text in Rambam's Commentary on the Mishna reads: Brothers and partners. The Rambam maintains that it is referring to two separate cases, and accordingly he has an entirely different explanation of the mishna. He holds that joint ownership of animals by itself does not exempt the partners with regard to animals that have not yet been born; the exemption applies only to those animals that each of them brings to the partnership. With regard to such animals it is considered as though each purchased his share of the animals from the other, and therefore the partners are exempt from animal tithe, as they are purchasers. It is hard to reconcile the Gemara with the Rambam's opinion, as the exemption for partners is derived from a verse as a distinct *halakha*; partners are not treated as a subcategory of purchasers.

Premium – קָלְבּוֹן: All adult male Jews are commanded to contribute a half-shekel to the Temple annually for the communal sacrifices. The Sages instituted that in addition to the half-shekel, one must give another small coin called a *kalbon*, a premium, toward the expense of converting the half-shekel coins into shekel coins (Rashi). They also mandated that two people who pay a full shekel for the pair of them must each pay the premium despite the fact that no currency conversion is required. If multiple family members pay from a single family estate, e.g., a father contributes on behalf of his sons, no premium is required (see *Shekalim* 1:6–7).

LANGUAGE

Premium [*kalbon*] – קָלְבּוֹן: From the Greek κόλοβον, *kolobon*, a measure.

HALAKHA

Brothers and partners – הָאַחִין וְהַשּׁוּתָּפִין: Partners who each bring lambs into the partnership are considered as though they had purchased them from one for the other, and therefore they are exempt from animal tithe. Likewise, the lambs inherited by brothers from their father are exempt from animal tithe. The obligation of animal tithe does apply to animals born subsequently to their female livestock (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:10).

Brothers and partners with regard to the premium – הָאַחִין וְהַשּׁוּתָּפִין לְעִנְיַן קָלְבּוֹן: Brothers who have not yet divided their inheritance, and partners who give one shekel on behalf of the pair of them, are exempt from paying the premium. This applies to partners who have traded using their shared money, and now possess money that was acquired by the partnership. But if two people decide to pool their money and become partners and have not yet used that joint money to purchase anything, they must pay the premium. If they purchased and sold with the joint money, divided their partnership, and then reestablished it, they are obligated to pay the premium (Rambam *Sefer Zemanim*, *Hilkhot Shekalim* 3:4, and see Ra'avad there).

Acquired from the possession of their father's house – קָנוּ מִתְּפִיסַת הַבַּיִת: Lambs, kids, and calves, when born from animals purchased jointly by partners, or by brothers with money from their inheritance, are subject to animal tithe. This is because they were born while in the possession of the partners or brothers, who are considered as one person (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:10).

If they divided and then reentered a partnership – חָלְקוּ חָזְרוּ וְנִשְׁתַּתְּפוּ: If partners divided up their partnership, or brothers divided the inheritance from their father, after animals were born in their flocks, and then the partners or brothers reestablished a partnership, those animals are exempt from animal tithe. The reason is that when they performed the division the animals had the status of purchased animals, which are exempt (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:10).

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וַהֲאי בִּבְכוֹר כְּתִיב! אִם אֵינוֹ עִנְיָן לִבְכוֹר – דְּהָא אִיתֵּיהּ בְּשׁוּתָּפוּת, דִּכְתִיב: ״וּבְכֹרוֹת בְּקַרְכֶם וְצֹאנְכֶם״, תְּנֵהוּ עִנְיָן לְמַעְשַׂר בְּהֵמָה.

The Gemara asks: **But this** verse is not referring to animal tithe; rather, it is **written with regard to firstborn** animals. The Gemara answers: **If it is not** needed **for the matter of firstborn** animals, **as** the mitzva of sanctifying a firstborn animal **does** apply **in** a case of **partnership,**[H] **as it is written,** in the plural form: "And you shall bring there your burnt offerings, and your offerings, and your tithes, and the offering of your hand, and your vows, and your gift offerings, **and the firstborn of your herd and of your flock**" (Deuteronomy 12:6), **apply** the verse **to the matter of**[B] **animal tithe,** teaching that it does not apply to an animal owned by partners.

אָמַר רַבִּי יִרְמְיָה: פְּעָמִים שֶׁחַיָּיבִין בְּזֶה וּבָזֶה, וּפְעָמִים שֶׁפְּטוּרִין מִזֶּה וּמִזֶּה, פְּעָמִים שֶׁחַיָּיבִין בַּקָּלְבּוֹן וּפְטוּרִין מִמַּעְשַׂר בְּהֵמָה, וּפְעָמִים שֶׁחַיָּיבִין בְּמַעְשַׂר בְּהֵמָה וּפְטוּרִין מִן הַקָּלְבּוֹן.

§ The mishna teaches: If the brothers divided the inheritance between them and then reentered a partnership, they are obligated to add the premium and are exempt from animal tithe. **Rabbi Yirmeya says:** There are **times when they are obligated** both **in this,** the premium, **and in that,** animal tithe. **And** there are **times when they are exempt** both **from this and from that.** Furthermore, there are **times when they are obligated to** add **the premium and are exempt from animal tithe; and** finally, there are **times when they are obligated in animal tithe and are exempt from** having to add **the premium.**

חַיָּיבִין בְּזֶה וּבָזֶה – שֶׁחָלְקוּ בַּכְּסָפִים וְלֹא חָלְקוּ בַּבְּהֵמָה; פְּטוּרִין מִזֶּה וּמִזֶּה – שֶׁחָלְקוּ בַּבְּהֵמָה וְלֹא חָלְקוּ בַּכְּסָפִים;

The Gemara elaborates: The guiding principle is that partners are exempt from animal tithe but obligated to pay the premium, whereas in the case of individual ownership one is obligated in the animal tithe but exempt from paying the premium. Therefore, the case where **they are obligated** both **in this,** the premium, **and in that,** animal tithe, is **when they divided the money** they inherited from their father **but did not divide the animals**[H] they inherited. The case where **they are exempt** both **from this and from that** is **when they divided the animals but did not divide the money.**[H]

חַיָּיבִין בַּקָּלְבּוֹן וּפְטוּרִין מִמַּעְשַׂר בְּהֵמָה – שֶׁחָלְקוּ בְּזֶה וּבָזֶה;

The case where **they are obligated to** pay **the premium and are exempt from animal tithe** is **when they divided** up both **this and that,** the money and the animals, from the estate of their deceased father. Afterward they reestablished a partnership and are therefore partners in the normal sense, rather than co-owners of the original inherited estate, and partners are obligated to pay the premium and are exempt from the animal tithe.

חַיָּיבִין בְּמַעְשַׂר בְּהֵמָה וּפְטוּרִין מִן הַקָּלְבּוֹן – שֶׁלֹּא חָלְקוּ בְּזֶה וּבָזֶה.

Finally, the case where **they are obligated in the animal tithe and are exempt from** paying **the premium** involves brothers **who have not divided this or that,** the money and the animals of their father's estate, between them at all. It is therefore considered as though their father is still the sole owner of the estate and is contributing the shekel for the pair of them. Since the estate is under individual ownership, the animal tithe must be separated from the livestock.

פְּשִׁיטָא! חָלְקוּ בַּבְּהֵמָה וְלֹא חָלְקוּ בַּכְּסָפִים אִיצְטְרִיכָא לֵיהּ, סָלְקָא דַּעְתָּךְ אָמִינָא: כֵּיוָן דְּחָלְקוּ בַּבְּהֵמָה – גָּלוּ דַּעְתַּיְיהוּ דִּלְמֵיפְלַג קָיְימִי, וְלִיחַיְיבוּ בַּקָּלְבּוֹן, קָא מַשְׁמַע לָן.

The Gemara asks: Isn't it **obvious?** What is the novelty of Rabbi Yirmeya's statement? The Gemara answers: It **was necessary for** Rabbi Yirmeya to teach the case where **they divided the animals but did not divide the money.** It might **enter your mind to say** that **since they divided the animals they** have thereby **revealed their intent** to divide the entire estate. Consequently, the estate **stands to be divided, and they should be obligated** to pay **the premium.** Therefore, Rabbi Yirmeya **teaches us** that they are exempt from paying the premium until they have actually divided the money.

BACKGROUND

If it is not…the matter of…apply it to the matter of – אִם אֵינוֹ עִנְיָן לְ…תְּנֵהוּ עִנְיָן לְ: This form of reasoning is one of the thirty-two hermeneutical principles of Rabbi Eliezer, son of Rabbi Yosei. It is applied when a verse is superfluous in the context in which it is written. Owing to this superfluity the verse is applied to another context, though never to a matter entirely unrelated to the plain meaning of the verse. According to most commentaries, the conclusions drawn from any of these principles are as authoritative as *halakhot* explicitly written in the Torah (see *Yad Malakhi*).

HALAKHA

As the mitzva of sanctifying a firstborn animal does apply in a case of partnership – דְּהָא אִיתֵּיהּ בְּשׁוּתָּפוּת: A firstborn animal owned by partners has the sanctity of a firstborn animal. This *halakha* is in accordance with the Gemara here and the opinion of the Rabbis on *Ḥullin* 135a (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 4:1).

When they divided the money but did not divide the animals – שֶׁחָלְקוּ בַּכְּסָפִים וְלֹא חָלְקוּ בַּבְּהֵמָה: Brothers or partners who jointly owned money and animals, and who divided the money but remained partners in the ownership of the animals, are obligated in animal tithe and the premium. This ruling is in accordance with the opinion of Rabbi Yirmeya (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:11 and *Sefer Zemanim*, *Hilkhot Shekalim* 3:5).

When they divided the animals but did not divide the money – שֶׁחָלְקוּ בַּבְּהֵמָה וְלֹא חָלְקוּ בַּכְּסָפִים: Brothers or partners who jointly owned animals and money, and who divided the animals but not the money, are exempt from animal tithe and from the premium, in accordance with the opinion of Rabbi Yirmeya (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:11 and *Sefer Zemanim*, *Hilkhot Shekalim* 3:5).

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§ **Rav Anan says:** The Sages **taught** this *halakha* **only** in a case **where they divided kids for goats**[N] **and goats for kids,** i.e., when the two brothers inherited both kids and goats, but one took all the goats and the other all the kids. Since each originally inherited both goats and kids, this division is tantamount to one brother trading his goats for the other's kids. When they again become partners, they are considered like strangers who join together. Consequently, they are exempt from the animal tithe.

אָמַר רַב עָנָן: לֹא שָׁנוּ אֶלָּא שֶׁחָלְקוּ גְּדָיִים כְּנֶגֶד תְּיָישִׁים וּתְיָישִׁים כְּנֶגֶד גְּדָיִים,

But if **they divided kids for kids**[H] **and goats for goats,** so that each takes some of both types, in the normal manner, one can **say** that **this,** i.e., the group of animals that each brother takes, **is** considered **his share to which he is entitled from the outset,** and no transaction between them has occurred. Consequently, when they reestablish the partnership the estate reverts to its original status as a single entity, and they are therefore obligated to separate animal tithe.

אֲבָל חָלְקוּ גְּדָיִים כְּנֶגֶד גְּדָיִים וּתְיָישִׁים כְּנֶגֶד תְּיָישִׁים – אוֹמֵר: זֶה חֶלְקוֹ הַמַּגִּיעוֹ מִשָּׁעָה רִאשׁוֹנָה לְכָךְ.

And Rav Naḥman says: Even if **they divided** the estate in the manner of **kids for kids and goats for goats, we do not say** that **this,** the group of animals taken by each brother, **is** considered **his share to which he is entitled from the outset.** Therefore, if they reestablish a partnership they are considered like partners and are exempt from separating animal tithe.

וְרַב נַחְמָן אָמַר: אֲפִילּוּ חָלְקוּ גְּדָיִים כְּנֶגֶד גְּדָיִים וּתְיָישִׁים כְּנֶגֶד תְּיָישִׁים – אֵין אוֹמְרִים: זֶה הוּא חֶלְקוֹ הַמַּגִּיעוֹ מִשָּׁעָה רִאשׁוֹנָה לְכָךְ.

The Gemara notes that this matter is also the subject of a dispute between other *amora'im*. **And Rabbi Elazar says:** The Sages **taught** this *halakha* **only when they divided nine** large goats **for ten** kids, **and ten** kids **for nine** large ones. Since the nine large goats are worth the same as ten kids, this division is tantamount to one brother trading his large goats for the other's kids. When they again become partners they are considered as strangers who join together, and therefore they are exempt from the animal tithe.

וְרַבִּי אֶלְעָזָר אָמַר: לֹא שָׁנוּ אֶלָּא שֶׁחָלְקוּ תִּשְׁעָה כְּנֶגֶד עֲשָׂרָה וַעֲשָׂרָה כְּנֶגֶד תִּשְׁעָה,

But if **they divided nine** large goats **for nine** large goats **and ten** kids **for ten** kids, so that each takes some of both types, one can **say** that **this,** the group of animals taken by each brother, **is** considered **his share to which he is entitled from the outset,** and no transaction between them has occurred. Consequently, when they reestablish the partnership the estate reverts to its original status as a single entity, which means they are obligated to separate animal tithe.

אֲבָל חָלְקוּ תִּשְׁעָה כְּנֶגֶד תִּשְׁעָה וַעֲשָׂרָה כְּנֶגֶד עֲשָׂרָה – אוֹמֵר: זֶה חֶלְקוֹ הַמַּגִּיעוֹ מִשָּׁעָה רִאשׁוֹנָה לְכָךְ.

And Rabbi Yoḥanan says: Even if **they divided** the estate in the manner of **nine** large goats **for nine** large goats **and ten** kids **for ten** kids, one does **not say** that **this,** the group of animals taken by each brother, **is** considered **his share to which he is entitled from the outset.** Therefore, if they reestablish a partnership they are considered as partners and are exempt from separating animal tithe.

וְרַבִּי יוֹחָנָן אָמַר: אֲפִילּוּ חָלְקוּ תִּשְׁעָה כְּנֶגֶד תִּשְׁעָה, וַעֲשָׂרָה כְּנֶגֶד עֲשָׂרָה – אֵין אוֹמֵר: זֶה חֶלְקוֹ הַמַּגִּיעוֹ מִשָּׁעָה רִאשׁוֹנָה לְכָךְ.

HALAKHA

But if they divided kids for kids, etc. – אֲבָל חָלְקוּ גְּדָיִים כְּנֶגֶד גְּדָיִים וכו׳: Partners or brothers who divided up their partnership or inheritance and subsequently reestablished their partnership are exempt from animal tithe because they have the status of purchasers. This applies even if they divided ten kids for ten kids, in accordance with the opinions of Rav Naḥman and Rabbi Yoḥanan (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:10).

NOTES

Where they divided kids for goats, etc. – שֶׁחָלְקוּ גְּדָיִים כְּנֶגֶד תְּיָישִׁים וכו׳: The commentary follows Rashi, who maintains that the Gemara is explaining the mishna: If the brothers divided their inheritance and then formed a partnership, they are exempt from animal tithe. Rashi explains that the exchange of kids for goats, and the exchange of kids for kids, refer to the different ways in which the inheritance can be divided. When dividing one type, the principle of retroactive designation applies, i.e., each brother is considered to have received the portion of the inheritance that was always his. Therefore, when they subsequently form a partnership they return to their initial state of being jointly owned. By contrast, the division of goats and kids is based on value, and this is classified as a purchase.

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וְאָזְדָא רַבִּי יוֹחָנָן לְטַעֲמֵיהּ, דְּאָמַר רַבִּי אַסִּי אָמַר רַבִּי יוֹחָנָן: הָאַחִין שֶׁחָלְקוּ – לָקוֹחוֹת הֵן, וּמַחֲזִירִין זֶה לָזֶה בַּיּוֹבֵל.

And Rabbi Yoḥanan follows his established line of **reasoning** in this regard. **As Rav Asi says** that **Rabbi Yoḥanan says: Brothers who divided**[H] real estate received as an inheritance **are** considered **purchasers** who have purchased from each other, **and** as purchasers of land **they must return** the portions **to each other in the Jubilee** Year,[B] at which point they may redistribute the property. This demonstrates that Rabbi Yoḥanan does not hold that it is retroactively established that each brother's portion was designated for him upon their father's death. Rather, it is considered as though all the land was joint property until the brothers traded or bought their respective portions from each other.

וּצְרִיכִי, דְּאִי אַשְׁמַעִינַן הָכָא – בְּהָא קָאָמַר רַבִּי יוֹחָנָן, דּוּמְיָא דְּבִנְךָ, מַה בִּנְךָ – בְּבָרוּר לְךָ, אַף שׁוֹרְךָ וְצֹאנְךָ – בְּבָרוּר לְךָ; אֲבָל שָׂדֶה – מָכָר הוּא דְּאָמַר רַחֲמָנָא לִיהֲדַר בַּיּוֹבֵל, יְרוּשָּׁה וּמַתָּנָה לָא!

The Gemara notes: **And** both statements of Rabbi Yoḥanan **are necessary. As, if he had taught** this *halakha* to **us** only **here,** with regard to animal tithe, one might have thought that it is **in this** case that **Rabbi Yoḥanan says** each one has not received his own portion. This is because the case must be **similar to** the case of **your** firstborn **son,** in accordance with the juxtaposition between the two cases. **Just as your** firstborn **son** is redeemed only if it **is clear to you** that he is your son, not if he is purchased from another, **so too, your cattle and your sheep** are subject to animal tithe only if it **is clear to you,** i.e., if there is no aspect of acquisition at all. **But** in the case of **a field,** one might think **it is** only with regard to a field that is **sold that the Merciful One states** that the purchaser **should return it in the Jubilee** Year, whereas a field that **is an inheritance or a gift**[H] need **not** be returned.

וְאִי אַשְׁמַעִינַן שָׂדֶה – לְחוּמְרָא, אִי נָמֵי – לְכַתְּחִלָּה, אֲבָל הָכָא – אֵימָא לָא, צְרִיכָא.

And if Rabbi Yoḥanan **had taught us** only the *halakha* that **a field** inherited by two brothers must be returned in the Jubilee Year, one might have thought that Rabbi Yoḥanan was uncertain and therefore ruled **to be stringent.** If so, he would rule stringently with regard to animal tithe as well, deeming the brothers liable. **Alternatively,** one might think Rabbi Yoḥanan rules in this manner with regard to returning fields in the Jubilee Year only because the field must return to how it was **in the beginning.**[N] **But here,** in the case of animal tithe, where there is no requirement to return matters to their initial state, one might **say** that the brothers are **not** considered to be purchasers, but rather each received the animals that were retroactively designated for him and they are therefore obligated in animal tithe. For this reason it **is necessary** for Rabbi Yoḥanan to teach both cases.

מֵיתִיבִי: וְכֵן הַשּׁוּתָּפִין שֶׁחָלְקוּ, אֶחָד נָטַל עֲשָׂרָה וְאֶחָד נָטַל תִּשְׁעָה וְכֶלֶב, שֶׁכְּנֶגֶד הַכֶּלֶב – אֲסוּרִין, שֶׁעִם הַכֶּלֶב – מוּתָּרִים; וְאִם אָמַרְתְּ יֵשׁ בְּרֵירָה – לִיבְרוֹר חַד מִינַּייהוּ לְבַהֲדֵי כֶּלֶב וְלִשְׁקוֹל, וְהָנָךְ לִישְׁתְּרוּ!

The Gemara **raises an objection** from a *baraita* against the opinion that there is retroactive designation of the animals: **And similarly** in the case of two **partners who divided** their common property, and **one took ten** lambs **and** the other **one took nine** lambs **and a dog,**[H] sacrificing any of the ten lambs taken **in exchange for the dog is prohibited.** This is because they are considered "the price of a dog," as it states in the Torah (Deuteronomy 23:19), since they were given in exchange for it. Nevertheless, the nine lambs **that** were taken **with the dog are permitted** for sacrifice. The Gemara explains the objection: **And if you say** that **there is** retroactive **designation,** why are all ten lambs prohibited? **Let him select one of** the lambs **to correspond to the dog and take it** away, **and** all the rest of **these** lambs **should be permitted.**

HALAKHA

Brothers who divided, etc. – הָאַחִין שֶׁחָלְקוּ וכו': Brothers who divide their father's inheritance have the status of purchasers. Therefore, they must each return their share in the Jubilee Year. The commentaries explain that the initial division remains, but they switch the plots between themselves (*Kesef Mishne* and Mahari Kurkus). This *halakha* is in accordance with the opinion of Rabbi Yoḥanan (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:20).

Or a gift – וּמַתָּנָה: A field given as a gift to another must be returned in the Jubilee Year, in accordance with the opinion of the Rabbis on 52b (Rambam *Sefer Zera'im*, *Hilkhot Shemitta VeYovel* 11:19).

Partners who divided…and one took nine lambs and a dog – הַשּׁוּתָּפִין שֶׁחָלְקוּ…וְאֶחָד נָטַל תִּשְׁעָה וְכֶלֶב: In a case where two partners divided up their partnership, with one taking ten lambs and the other taking nine lambs and one dog, the nine lambs that were taken with the dog are permitted for sacrifice on the altar. With regard to the ten lambs, if one of them is worth the value of the dog or more, that lamb may not be sacrificed, and the others are permitted for the altar. If each of the lambs is worth less than the value of the dog, all ten are prohibited for sacrifice on the altar. This *halakha* is in accordance with the mishna on *Temura* 30a (Rambam *Sefer Avoda*, *Hilkhot Issurei Mizbe'aḥ* 4:17).

BACKGROUND

Jubilee Year – יוֹבֵל: The Jubilee Year, which is the fiftieth year following seven Sabbatical cycles of seven years, has a unique status. All the agricultural *halakhot* that apply in the Sabbatical Year must also be observed in the Jubilee Year. In addition, all Hebrew slaves, including those who agreed to continue in servitude beyond their initial term, are freed, while fields that were sold are returned to their original owners (see Leviticus, chapter 25). The liberation of Hebrew slaves and the restoration of the fields occur after Yom Kippur. On Yom Kippur of that year special prayers are recited and the shofar is sounded in a manner similar to the way it is sounded on Rosh HaShana. The Jubilee Year is observed only when the majority of the Jewish people are living in Eretz Yisrael. Consequently, its observance was discontinued during the First Temple period and has not yet been renewed.

NOTES

Alternatively, in the beginning – אִי נָמֵי לְכַתְּחִלָּה: According to Rashi (*Gittin* 25a), this is referring to the initial inheritance of Eretz Yisrael, when it had not yet been divided but belonged to one person. The Rashba cites some commentaries who explain that Rashi means the land must be returned to its original state, as Abraham inherited it when the land was given solely to him. The Rashba himself holds that it means they return the land to the original state it was in when it was divided between the tribes of Israel. Only that division, which was performed with the *Urim VeTummim* and a lottery, is considered definitive. Any other division of land is merely an arrangement between those who inherit it, like any other business agreement.

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אֲמַר רַב אַשִׁי: אִי דְּשָׁווּ כּוּלְּהוּ לַהֲדָדֵי – הָכִי נַמִי; הָכָא בְּמַאי עָסְקִינַן – דְּלָא שָׁווּ כּוּלְּהוּ לַהֲדָדֵי, וְשָׁוֵי הַאי כַּלְבָּא חַד וּמַשֶּׁהוּ, וְהַאי מַשֶּׁהוּ – מְשִׁיךְ וְאָתֵי בְּכוּלְּהוּ.

Rav Ashi said: If this is referring to a case **where they are all equal** in value **to each other, indeed** one may consider only one of the lambs as corresponding to the dog. **Here, we are dealing with** a case **where they are not all equal** in value **to each other, but the value of this dog is one and** a small **amount** more than the value of each one of the ten lambs. Therefore, one cannot set aside a single lamb in exchange for the dog, **and** consequently one **draws this** extra small **amount,** i.e., the additional value of the dog, and divides it **between all of** the other nine lambs. As a result, all ten lambs are prohibited, since part of the price of a dog is included in each of them.

מתני׳ הַכֹּל נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר, חוּץ מִן כִּלְאַיִם, וּטְרֵפָה, וְיוֹצֵא דּוֹפֶן, וּמְחוּסַּר זְמַן, וְהָיְתוֹם. וְאֵיזֶהוּ יָתוֹם – כָּל שֶׁמֵּתָה אִמָּהּ, שֶׁנִּשְׁחֲטָה וְאַחַר כָּךְ יָלְדָה. רַבִּי יְהוֹשֻׁעַ אוֹמֵר: אֲפִילּוּ נִשְׁחֲטָה אִמָּהּ וְהַשַּׁלַּח קַיָּם – אֵין זֶה יָתוֹם.

MISHNA **All** cattle, sheep, and goats **enter the pen to be tithed, except for** an animal crossbred **from diverse kinds,**[H] e.g., a hybrid of a goat and a sheep; **a *tereifa*;**[B] an animal **born by caesarean section;** one **whose time has not yet** arrived, i.e., that is younger than eight days old, which is when animals become eligible for sacrifice; **and an orphan. And what is an orphan?** It is **any** animal **whose mother died** or **was slaughtered** while giving birth to it **and thereafter** completed **giving birth** to it. **Rabbi Yehoshua says: Even if its mother was slaughtered but its hide exists** at birth, i.e., if the mother's hide is present after the birth, **this is not an orphan.**

גמ׳ מְנָא הָנֵי מִילֵּי? דְּתָנוּ רַבָּנַן: ״שׁוֹר אוֹ כֶשֶׂב״ – פָּרַט לְכִלְאַיִם, ״אוֹ עֵז״ – פָּרַט לִנְּדָמָה, ״כִּי יִוָּלֵד״ – פָּרַט לְיוֹצֵא דּוֹפֶן, ״וְהָיָה שִׁבְעַת יָמִים״ – פָּרַט לִמְחוּסַּר זְמַן, ״תַּחַת אִמּוֹ״ – פָּרַט לְיָתוֹם.

GEMARA The Gemara asks: **From where are these matters,** i.e., the fact that those animals are not included in the animal tithe, derived? The Gemara answers: **As the Sages taught** in a *baraita* that discusses offerings in general: "When a bull or a sheep or a goat is born, then it shall be seven days under its mother, but from the eighth day onward it may be accepted for an offering made by fire to the Lord" (Leviticus 22:27). The phrase "**a bull or a sheep**" serves to **exclude** an animal born **from diverse kinds; "or a goat"** serves to **exclude** an animal that **resembles** another, e.g., a sheep that is the offspring of two sheep but which looks like a goat, or vice versa; "**when…is born**" serves to **exclude** an animal **born by caesarean section; "then it shall be seven days"** serves to **exclude** an animal **whose time has not yet** arrived; "**under its mother**" serves to **exclude an orphan.**

רַבִּי יִשְׁמָעֵאל בְּנוֹ שֶׁל רַבִּי יוֹחָנָן בֶּן בְּרוֹקָה אוֹמֵר: נֶאֱמַר כָּאן ״תַּחַת הַשֵּׁבֶט״ וְנֶאֱמַר לְהַלָּן: ״תַּחַת אִמּוֹ״, מַה לְּהַלָּן – פָּרַט לְכָל הַשֵּׁמוֹת הַלָּלוּ, אַף כָּאן – פָּרַט לְכָל הַשֵּׁמוֹת הַלָּלוּ, וּמַה כָּאן – פָּרַט לִטְרֵפָה, אַף לְהַלָּן – פָּרַט לִטְרֵפָה.

The *baraita* continues: From where is it derived that these *halakhot* also apply to animal tithe? **Rabbi Yishmael, son of Rabbi Yoḥanan ben Beroka, says** it is learned by a verbal analogy from the term "under." It **is stated here,** with regard to animal tithe: "Whatever passes **under the rod"** (Leviticus 27:32), **and** it **is stated there,** with regard to all offerings: "**Under its mother**" (Leviticus 22:27). **Just as there,** in the case of all offerings, the verse serves to **exclude all these categories, so too here,** with regard to animal tithe, the verse serves to **exclude all these categories. And just as here,** with regard to animal tithe, the verse serves to **exclude a *tereifa*,**[N] as the verse states: "Whatever passes under the rod," and a *tereifa* is unable to pass unaided, **so too there,** with regard to all offerings, the verse serves to **exclude a *tereifa*.**

HALAKHA

Except for an animal crossbred from diverse kinds, etc. – חוּץ מִן כִּלְאַיִם וכו׳: All animals enter the pen to be tithed, whether they are blemished or unblemished, including those that are prohibited for sacrifice on the altar. The only exceptions are the offspring of diverse species, a *tereifa*, an animal born by caesarian section, and an animal whose time has not yet arrived, i.e., that is less than eight days old. These animals are all exempt from animal tithe. An orphan animal whose mother died or was slaughtered during its birth is likewise exempt from animal tithe. The Rambam writes that these *halakhot* are learned by tradition (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:14).

NOTES

And just as here to exclude a *tereifa* – וּמַה כָּאן פָּרַט לִטְרֵפָה: In Rambam's Commentary on the Mishna it is explained that a *tereifa* is too weak to pass under the rod (see also *Ohel Moshe*).

BACKGROUND

***Tereifa* – טְרֵפָה:** Generally speaking, a *tereifa* is an animal suffering from a condition that will cause it to die within twelve months. It is prohibited by Torah law to eat such an animal even after it undergoes ritual slaughter, although the actual source for this prohibition is a matter of dispute. Some authorities cite the verse: "You shall not eat any flesh that is torn of animals in the field" (Exodus 22:30), while others suggest the verse: "You shall not eat of anything that died of itself" (Deuteronomy 14:21). According to the *Minḥat Ḥinnukh*, both verses together serve as the source for the prohibition.

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״הַכֹּל״ לְאֵיתוּיֵי מַאי? לְאֵיתוּיֵי הָא דְּתָנוּ רַבָּנַן: הָרוֹבֵעַ וְהַנִּרְבָּע, וְהַמּוּקְצֶה, וְהַנֶּעֱבָד, וְהָאָתְנָן, וְהַמַּחִיר, וְטוּמְטוּם וְאַנְדְּרוֹגִינוֹס – כּוּלָּן נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר, דִּבְרֵי שִׁמְעוֹן בֶּן יְהוּדָה אוֹמֵר מִשּׁוּם רַבִּי שִׁמְעוֹן: טוּמְטוּם וְאַנְדְּרוֹגִינוֹס אֵין נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר.

§ The Gemara asks: **What** does the mishna's expansive term: **All,** serve **to include?** The Gemara answers that it serves **to include this** *halakha* **that the Sages taught** in a *baraita*: With regard to **an animal that copulated with a person, or an animal that was the object of bestiality, or** an animal that was **set aside** for idol worship, **or** one that **was worshipped** as a deity, **or** one that was given as **payment** to a prostitute **or** as the **price** of a dog, **or a *tumtum*,** i.e., an animal whose sexual organs are indeterminate, **or a hermaphrodite,** i.e., an animal displaying sexual organs of both sexes, **all of these enter the pen to be tithed** despite the fact that they are disqualified from being brought as offerings. **Rabbi Shimon ben Yehuda says in the name of Rabbi Shimon: A *tumtum* and a hermaphrodite do not enter the pen to be tithed.**

וְתָנָא דִּידַן, אִי גָּמַר ״תַּחַת״ ״תַּחַת״ מִקָּדָשִׁים – הָנֵי נַמִּי לָא, וְאִי לָא יָלִיף – הָנֵי מְנָא לֵיהּ?

The Gemara raises a difficulty: **But** as for **the *tanna* of our** mishna, **if he derives** the verbal analogy of: **"Under"** (Leviticus 27:32), and: **"Under"** (Leviticus 22:27), **from** the verse referring to **sacrificial** animals, then **these** types listed in the *baraita* should **also not** enter the pen to be tithed, as they are all disqualified from being sacrificed. **And if he does not derive** the verbal analogy from sacrificial animals, **from where** does he derive the exemption of **these** categories listed in the mishna, e.g., one whose time has not yet arrived and an orphan?

לְעוֹלָם גָּמִיר, וְהָנֵי רַחֲמָנָא רַבִּינְהוּ, דִּכְתִיב: ״כִּי מָשְׁחָתָם בָּהֶם מוּם בָּם לֹא יֵרָצוּ לָכֶם״, וְתָאנָא דְּבֵי רַבִּי יִשְׁמָעֵאל: כָּל מָקוֹם שֶׁנֶּאֱמַר בּוֹ מַשְׁחָתָה – אֵינוֹ אֶלָּא דָּבָר עֶרְוָה וַעֲבוֹדָה זָרָה;

The Gemara answers: **Actually,** the *tanna* does **derive** the verbal analogy, **but these** categories listed in the *baraita* **are included by the Merciful One** in the animal tithe. **As it is written** with regard to those animals that may not be brought as offerings: "Neither from the hand of a foreigner shall you offer the bread of your God of any of these, **because their corruption is in them, there is a blemish in them"** (Leviticus 22:25). This verse indicates that corruption is considered a blemish, **and the school of Rabbi Yishmael taught: Anywhere that** the term: **Corruption, is stated,** it **is** a reference to **nothing other than a matter of licentiousness and idol worship.**

דָּבָר עֶרְוָה – דִּכְתִיב: ״כִּי הִשְׁחִית כָּל בָּשָׂר אֶת דַּרְכּוֹ עַל הָאָרֶץ״, עֲבוֹדָה זָרָה – דִּכְתִיב: ״פֶּן תַּשְׁחִיתוּן וַעֲשִׂיתֶם לָכֶם פֶּסֶל תְּמוּנַת כָּל סָמֶל תַּבְנִית זָכָר אוֹ נְקֵבָה״;

The *baraita* supports this claim: Corruption is a reference to **a matter of licentiousness, as it is written** with regard to the generation of the flood: "And God saw the earth, and behold, it was corrupt; **for all flesh had corrupted their way upon the earth"** (Genesis 6:12). **And** corruption is also a reference to **idol worship, as it is written: "Lest you deal corruptly, and make you a graven image, the form of any figure, the likeness of male or female"** (Deuteronomy 4:16).

וְכָל שֶׁהַמּוּם פּוֹסֵל בּוֹ – דִּבַּר עֶרְוָה וַעֲבוֹדָה זָרָה פּוֹסְלִין בּוֹ, וְכָל שֶׁאֵין הַמּוּם פּוֹסֵל בּוֹ – אֵין דִּבַּר עֶרְוָה וַעֲבוֹדָה זָרָה פּוֹסְלִין בּוֹ; וְהַאי מַעֲשֵׂר, הוֹאִיל וְלָא פָּסֵיל בֵּיהּ מוּמָא, דִּכְתִיב: ״לֹא יְבַקֵּר בֵּין טוֹב לָרַע וְלֹא יְמִירֶנּוּ״ – דִּבַּר עֶרְוָה וַעֲבוֹדָה זָרָה נַמִּי לָא פָּסֵיל בֵּיהּ.

And the juxtaposition of the word "corruption" with the word "blemish" in Leviticus 22:25 teaches that in **any** case **where a blemish disqualifies** an animal, **a matter of licentiousness or** a matter of **idol worship also disqualifies it. And** in a case **where a blemish does not disqualify** an animal, **a matter of licentiousness or** a matter of **idol worship** also **does not disqualify it. And** with regard to **this** animal **tithe, since a blemish** on an animal **does not disqualify it, as it is written: "He shall not inquire whether it be good or bad, neither shall he change it"** (Leviticus 27:33), **a matter of licentiousness or** a matter of **idol worship also does not disqualify it.**

רוֹבֵעַ וְנִרְבָּע – דִּבַּר עֶרְוָה, מוּקְצֶה וְנֶעֱבַד – עֲבוֹדָה זָרָה, וְאָתְנָן – דִּבַּר עֶרְוָה, וּמְחִיר – אִיתַּקַּשׁ לְאָתְנָן,

The Gemara further explains that the categories listed in the *baraita* are either matters of licentiousness or matters of idol worship. **An animal that copulated with a person and an animal that was the object of bestiality** are both **a matter of licentiousness.** An animal that was **set aside** for idol worship **and** one that **was worshipped** are cases of **idol worship. And** an animal that was given as **payment** to a prostitute is **a matter of licentiousness, and** an animal used as the **price** of a dog **is juxtaposed to** an animal that was given as **payment** to a prostitute (see Deuteronomy 23:19).

טוּמְטוּם וְאַנְדְּרוֹגִינוֹס – קָסָבַר: סְפֵיקָא הוּא.

Finally, with regard to an animal that is **a *tumtum* or a hermaphrodite,** the *tanna* **holds** that **it is uncertain** whether it is male or female, not a creature unto itself, and therefore a *tumtum* is also subject to the tithe.

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״רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה אוֹמֵר״ – קָסָבַר: סְפֵיקָא הוּא, מִיעֵט רַחֲמָנָא גַּבֵּי קָדָשִׁים, זָכָר וַדַּאי וּנְקֵבָה וַדָּאִית, וְלֹא טוּמְטוּם וְאַנְדְּרוֹגִינוֹס, מַעֲשֵׂר נַמִּי – גָּמַר ״תַּחַת״ ״תַּחַת״ מִקָּדָשִׁים.

The *baraita* states that **Rabbi Shimon ben Yehuda says** in the name of Rabbi Shimon: A *tumtum* and a hermaphrodite do not enter the pen to be tithed. The Gemara explains: **He holds that** the case of an animal that is a *tumtum* or a hermaphrodite involves an **uncertainty,** and **the Merciful One excluded** cases of uncertainty **with regard to sacrificial** animals. Only **a definite male or a definite female** is fit to be sacrificed on the altar, **but not a *tumtum* or a hermaphrodite.** Consequently, with regard to animal **tithe too,** they do not enter the pen to be tithed, as he **derives** the verbal analogy of "**under**" and "**under**" **from sacrificial** animals.

תָּנוּ רַבָּנַן: הַכֹּל נִכְנָסִין לַדִּיר לְהִתְעַשֵּׂר, חוּץ מִן הַכִּלְאַיִם וְהַטְּרֵפָה – דִּבְרֵי רַבִּי אֶלְעָזָר בְּרַבִּי יְהוּדָה אִישׁ כְּפַר בַּרְתּוֹתָא שֶׁאָמַר מִשּׁוּם רַבִּי יְהוֹשֻׁעַ. אָמַר רַבִּי עֲקִיבָא: אֲנִי שָׁמַעְתִּי הֵימֶנּוּ אַף יוֹצֵא דּוֹפֶן וּמְחוּסַּר זְמָן וְיָתוֹם.

The Sages taught in a *baraita*: **All** animals **enter the pen to be tithed except for** an animal crossbred **from diverse kinds,** e.g., a hybrid of a goat and a sheep, **and a *tereifa*;** this is **the statement of Rabbi Elazar, son of Rabbi Yehuda, of the village of Bartota, who said** it **in the name of Rabbi Yehoshua. Rabbi Akiva said: I heard from** Rabbi Yehoshua **that** an animal **born by caesarean section and** an animal **whose time has not yet** arrived, i.e., that is less than eight days old, **and an orphan** animal, are **also** excluded from animal tithe.

וְתַנָּא קַמָּא, אִי גָּמַר ״תַּחַת״ ״תַּחַת״ מִקָּדָשִׁים – הָנֵי נַמִּי לָא; וְאִי לָא גָּמַר, בְּשִׁלְמָא טְרֵפָה – ״כֹּל אֲשֶׁר יַעֲבֹר תַּחַת הַשָּׁבֶט״ כְּתִיב – פָּרֵט לִטְרֵפָה שֶׁאֵינָהּ עוֹבֶרֶת. אֶלָּא כִּלְאַיִם מְנָא לֵיהּ?

The Gemara asks: **And the first *tanna* of** the *baraita*, what does he maintain? **If he derives** the verbal analogy of "**under**" and "**under**" **from sacrificial** animals, then **these** categories listed by Rabbi Akiva should **also not** enter the pen to be tithed. **And if he does not derive** the verbal analogy, **granted,** he rules that **a *tereifa*** does not enter the pen to be tithed, as **it is written: "Whatever passes under the rod"** (Leviticus 27:32), which **excludes a *tereifa*, as it does not pass** under the rod due to its physical state. **But from where** does he derive that an animal crossbred **from diverse kinds** does not enter the pen to be tithed?

לְעוֹלָם גָּמַר, וּבְיוֹצֵא דּוֹפֶן

The Gemara answers: **Actually, he does derive** the verbal analogy of "under" and "under," and therefore he excludes a *tereifa* and diverse kinds from the animal tithe. **But** with regard to an animal **born by caesarean section**

Perek **IX**
Daf **57** Amud **b**

סָבַר לָהּ כְּרַבִּי שִׁמְעוֹן, דְּאָמַר: יוֹצֵא דּוֹפֶן – וָלָד מְעַלְיָא הוּא, וּדְלָא כְּרַבִּי יוֹחָנָן;

he holds in accordance with the opinion of **Rabbi Shimon, who says** that a human child **born by caesarean section is a full-fledged offspring** and renders its mother ritually impure with the impurity of childbirth. Likewise, with regard to an animal born by caesarean section, he holds the birth was a proper birth and the animal may be brought as an offering, and therefore it also enters the pen to be tithed. **And** this is **not in accordance with** the opinion of **Rabbi Yoḥanan,** who holds that Rabbi Shimon concedes that an animal born by caesarean section is disqualified from being brought as an offering (see *Nidda* 40a).

בִּמְחוּסַּר זְמָן סָבַר לָהּ כְּרַבִּי שִׁמְעוֹן בֶּן יְהוּדָה; יָתוֹם – כְּגוֹן שֶׁהַשַּׁלְחַ קַיָּים. וְרַבִּי יְהוֹשֻׁעַ לְטַעֲמֵיהּ, דְּאָמַר: אֲפִילּוּ שָׁחַט אֶת אִמּוֹ וְהַשַּׁלְחַ קַיָּים – אֵין זֶה יָתוֹם.

And **with regard to** an animal **whose time has not yet** arrived, this *tanna* **holds in accordance with** the opinion of **Rabbi Shimon ben Yehuda,** who maintains that the obligation of animal tithe applies to such an animal. As for **an orphan** animal, he is referring to a case **where** the mother's **hide exists** at birth, i.e., the mother's hide is present after the birth, and therefore the animal is not considered an orphan. **And Rabbi Yehoshua,** whose opinion this *tanna* follows, conforms **to his** standard line of **reasoning, as he says: Even if its mother was slaughtered but its hide exists** at birth, i.e., if the mother's hide is present after the birth, **this is not an orphan.**

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הֵעִיד רַבִּי יִשְׁמָעֵאל בֶּן סַתְרִיאֵל מֵעַרַקַת לְבֵינָה לִפְנֵי רַבִּי: בִּמְקוֹמֵנוּ מַפְשִׁיטִין אֶת הַמֵּתָה וּמַלְבִּישִׁין אֶת הַחַי. אָמַר רַבִּי: נִתְגַּלָּה טַעֲמָא שֶׁל מִשְׁנָתֵינוּ.

Rabbi Yishmael ben Satriel,[N] **from** a place called **Arkat Leveina, testified before Rabbi** Yehuda HaNasi: **In our locale,** if an animal dies while giving birth **they flay the dead** mother's skin **and clothe the living** newborn animal with it for protection. **Rabbi** Yehuda HaNasi **said:** This testimony of yours **reveals the reason for** the ruling of **the mishna** that if the hide of the mother still exists the offspring is not considered to be an orphan; the hide serves as a substitute for the mother.

חֲזִירִין שֶׁבִּמְקוֹמֵנוּ יֵשׁ לָהֶם שִׁשִּׁים רִבּוֹא קְלָפִים בְּבֵית הַמֹּסֶס שֶׁלּוֹ. פַּעַם אַחַת נָפַל אֶרֶז אֶחָד שֶׁבִּמְקוֹמֵנוּ, וְעָבְרוּ שֵׁשׁ עֶשְׂרֵה קְרוֹנוֹת עַל חוּדּוֹ אַחַת.

Rabbi Yishmael ben Satriel also testified before Rabbi Yehuda HaNasi: **The lettuce in our locale has 600,000**[N] **leaves in its omasum,**[N] i.e., in its core. Rabbi Yishmael ben Satriel further testified before Rabbi Yehuda HaNasi: **Once one cedar** tree **fell in our locale, and** it was so wide that **sixteen wagons passed over its back,**[N] meaning the width of its trunk, as **one,** i.e., side by side.

פַּעַם אַחַת נָפְלָה בֵּיצַת בַּר יוֹכָנִי, וְטִבְּעָה שִׁשִּׁים כְּרַכִּים, וְשָׁבְרָה שְׁלֹשׁ מֵאוֹת אֲרָזִים. וּמִי שָׁדְיָא לֵיהּ? וְהָא כְּתִיב: ״כְּנַף רְנָנִים נֶעֱלָסָה״! אֲמַר רַב אַשִׁי: הַהוּא מִזּוּרְתָּא הֲוַאי.

Rabbi Yishmael ben Satriel also testified before Rabbi Yehuda HaNasi: **Once an egg of** the bird called ***bar yokhani***[B] **fell,**[N] **and** the contents of the egg **drowned sixty cities and broke three hundred cedar** trees. The Gemara asks: **And does** the *bar yokhani* bird **throw** its eggs to the ground? **But isn't it written: "The *kenaf renanim* bird rejoices,** but are her wings and feathers those of the stork? For she leaves her eggs on the earth, and warms them in dust" (Job 39:13–14)? The Sages understood that *kenaf renanim* is another name for the *bar yokhani* bird. If so, how could its egg fall if it lays its eggs on the ground? **Rav Ashi said** in explanation: **That** egg **was unfertilized,** and since it would never hatch the bird threw it to the ground.

מתני׳ שָׁלֹשׁ גְּרָנוֹת לְמַעְשַׂר בְּהֵמָה: בְּפֶרֶס הַפֶּסַח, וּבְפֶרֶס הָעַצֶּרֶת, וּבְפֶרֶס הֶחָג, וְזֶהֵן גְּרָנוֹת שֶׁל מַעְשַׂר בְּהֵמָה – דִּבְרֵי רַבִּי עֲקִיבָא.

MISHNA There are **three** times during the year designated for **gathering**[H] the animals that were born since the last date **for animal tithe: Adjacent to Passover, and adjacent to *Shavuot*, and adjacent to *Sukkot*. And those are the gathering** times **for animal tithe;**[N] this is **the statement of Rabbi Akiva.**

BACKGROUND

***Bar yokhani* – בַּר יוֹכָנִי:** Although the identity of this bird is unclear, the Gemara might be referring to the giant bird aepyornis, which in the days of the Sages of the Talmud still lived on the island of Madagascar and perhaps in other places as well. At that time reports of its existence reached far and wide.



Replica of aepyornis



Fossil of aepyornis egg juxtaposed with chicken egg

HALAKHA

There are three times designated for gathering – שְׁלֹשׁ גְּרָנוֹת: The Sages established three times annually for designating animal tithe. From those dates onward it is prohibited for the owner to sell or slaughter his animals until he has tithed them, but if he slaughters them they are permitted. The three times are the fifteenth day before Passover, which is the last day of Adar; the fifteenth day before *Shavuot*, which is the thirty-fifth day of counting the *omer*; and the fifteenth day before *Sukkot*, which is the last day of Elul. Each of these days is a designated time for separating animal tithes. The reason the Sages fixed these times is so that there would be animals available for those ascending to Jerusalem for the pilgrimage Festivals. Although it is permitted to sell animals before tithing them, many would refrain from selling them until they are tithed. This *halakha* is in accordance with the opinion of Rabbi Akiva, following the explanation of Rabbi Tanḥum, son of Rabbi Ḥiyya (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:8).

NOTES

Rabbi Yishmael ben Satriel – רַבִּי יִשְׁמָעֵאל בֶּן סַתְרִיאֵל: This Sage is not known from any other source. Furthermore, there is also no mention of a place called Arkat Leveina in any of the statements of the Sages. The commentaries note that the name: Ben Satriel, indicates that he is speaking of matters that are the secrets of God [*sitrei El*]. Consequently, his statements should not be interpreted literally as referring to actual physical matters. Rather, these are esoteric statements about the essence of human existence, which is referred to as: Our locale (Maharal).

Six hundred thousand – שִׁשִּׁים רִבּוֹא: The number six appears many times in aggadic statements, in varying orders of magnitude. The commentaries explain that this number refers to the essence of physical existence. Although the world contains many individual parts, they all make up one unit, and this is signified by the six physical directions, i.e., north, east, south, west, up, and down (Maharal).

The lettuce in our locale has 600,000 leaves in its omasum – חֲזִירִין שֶׁבִּמְקוֹמֵנוּ יֵשׁ לָהֶם שִׁשִּׁים רִבּוֹא קְלָפִים בְּבֵית הַמֹּסֶס שֶׁלּוֹ: The omasum is one of the stomachs of a ruminant. Its inner walls contain many ridges. The early commentaries explain that the omasum of the lettuce is its core.

Sixteen wagons passed over its back – שֵׁשׁ עֶשְׂרֵה קְרוֹנוֹת עַל חוּדּוֹ: The Maharal explains that the large cedar represents the absolute heights of material existence, and the width of sixteen wagons represents its breadth, just as a public domain is at least sixteen cubits wide. He explains the metaphor as referring to the downfall of the entirety of the physical world. The Maharsha maintains that the cedar represents Moses, who through his brilliance in Torah built the tradition for all future generations, which are represented by the wagons passing one after the other.

An egg of a *bar yokhani* fell – נָפְלָה בֵּיצַת בַּר יוֹכָנִי: According to the Maharal, this statement is related to the previous one. The giant *bar yokhani* represents heaven, the world beyond the physical, which drowns and overpowers the material world. The Maharsha holds that the *bar yokhani* refers to Moses smashing the tablets as a result of the sin of the Golden Calf. This sin has brought destruction upon the Jewish people and their leaders, represented by the cedars, throughout the generations.

And those are the gathering times for animal tithe – וְזֶהֵן גְּרָנוֹת שֶׁל מַעְשַׂר בְּהֵמָה: Rashi explains that Rabbi Akiva is stressing the fact that these times have the same *halakha* as the gathering of grain, i.e., from that time onward it is prohibited by rabbinic law to sell or slaughter the animals before separating the animal tithe.

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בֶּן עַזַּאי אוֹמֵר: בְּעֶשְׂרִים וְתִשְׁעָה בַּאֲדָר, בְּאֶחָד בְּסִיוָן, בְּעֶשְׂרִים וְתִשְׁעָה בְּאָב. רַבִּי אֶלְעָזָר וְרַבִּי שִׁמְעוֹן אוֹמְרִים: בְּאֶחָד בְּנִיסָן, בְּאֶחָד בְּסִיוָן, בְּעֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל. וְלָמָּה אָמְרוּ בְּעֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל? וְלֹא אָמְרוּ בְּאֶחָד בְּתִשְׁרֵי? מִפְּנֵי שֶׁהוּא יוֹם טוֹב, וְאֵי אֶפְשָׁר לְעַשֵּׂר בְּיוֹם טוֹב – לְפִיכָךְ הִקְדִּימוּהוּ בְּעֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל.

Ben Azzai[P] **says** the dates are: **On the twenty-ninth of Adar, on the first of Sivan,** and **on the twenty-ninth of Av. Rabbi Elazar and Rabbi Shimon say** that the dates are: **On the first of Nisan, on the first of Sivan,** and **on the twenty-ninth of Elul. And why did** Rabbi Elazar and Rabbi Shimon **say the twenty-ninth of Elul, and** why **did they not say the first of Tishrei?** It is **due to** the fact **that** the first of Tishrei **is** the **festival** of Rosh HaShana, **and one cannot tithe on a Festival. Consequently, they brought it earlier, to the twenty-ninth of Elul.**

רַבִּי מֵאִיר אוֹמֵר: בְּאֶחָד בֶּאֱלוּל רֹאשׁ הַשָּׁנָה לְמַעְשַׂר בְּהֵמָה. בֶּן עַזַּאי אוֹמֵר: הָאֱלוּלִים מִתְעַשְּׂרִים בִּפְנֵי עַצְמָן.

Rabbi Meir says: The beginning of **the new year for animal tithe is on the first of Elul. Ben Azzai says:** The animals born in **Elul are tithed by themselves,** due to the uncertainty as to whether the *halakha* is in accordance with the opinion of Rabbi Meir, i.e., that the new year begins on the first of Elul, or in accordance with the opinion of Rabbi Elazar and Rabbi Shimon, which would mean that the new year begins on the first of Tishrei.

כָּל הַנּוֹלָדִים מֵאֶחָד בְּתִשְׁרֵי עַד עֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל – הֲרֵי אֵלּוּ מִצְטָרְפִין. חֲמִשָּׁה לִפְנֵי רֹאשׁ הַשָּׁנָה וַחֲמִשָּׁה לְאַחַר רֹאשׁ הַשָּׁנָה – אֵינָן מִצְטָרְפִין. חֲמִשָּׁה לִפְנֵי הַגּוֹרָן וַחֲמִשָּׁה לְאַחַר הַגּוֹרָן – הֲרֵי אֵלּוּ מִצְטָרְפִין. אִם כֵּן, לָמָּה נֶאֶמְרוּ שָׁלֹשׁ גְּרוֹנוֹת לְמַעֲשַׂר בְּהֵמָה? שֶׁעַד שֶׁלֹּא הִגִּיעַ הַגּוֹרָן – מוּתָּר לִמְכּוֹר וְלִשְׁחוֹט, הִגִּיעַ הַגּוֹרָן – לֹא יִשְׁחוֹט, וְאִם שָׁחַט – פָּטוּר.

According to the opinion of Rabbi Elazar and Rabbi Shimon, with regard to **all** animals **that are born from the first of Tishrei until the twenty-ninth of Elul,**[H] **those** animals **join** to be tithed **together.** If **five** were born **before Rosh HaShana and five after Rosh HaShana,** those animals **do not join** to be tithed **together.** If **five** were born **before** a time designated for **gathering and five after** that time designated for **gathering, those** animals **join** to be tithed **together. If so, why were three** times **stated** for **gathering** the animals **for animal tithe?** The reason is **that until the** time designated for **gathering arrives** it is **permitted to sell and slaughter** the animals. Once **the** time designated for **gathering arrives one may not slaughter** those animals before tithing them; **but if he slaughtered** an animal without tithing it he is **exempt.**

גמ׳ מַאי שְׁנָא תְּלָת? אֲמַר רַבָּה בַּר שֵׁילָא: לָקֳבֵל חוּרְפֵי וַאֲפֵלֵי וְקַיְיטֵי.

GEMARA The mishna teaches that there are three times during the year designated for gathering the animals born since the last date for animal tithe. The Gemara asks: **What is different** about these dates, i.e., why are there specifically **three** times designated in the year? **Rabba bar Sheila said:** There are three times in order **to collect** the animals born **early** in winter, **and** the animals born **later** in spring, **and** the animals born in the **summer.**

וּמַאי שְׁנָא בְּהָנֵי זִימְנֵי? אָמַר רַבִּי תַּנְחוּם בְּרֵיהּ דְּרַב חִיָּיא אִישׁ כְּפַר עַכּוֹ:

The Gemara asks: **And what is different about these** three **times,** i.e., before Passover, *Shavuot,* and *Sukkot,* that they are chosen? **Rabbi Tanḥum, son of Rav Ḥiyya, of the village of Akko, says:**

Perek **IX**
Daf **58** Amud **a**

כְּדֵי שֶׁתְּהֵא בְּהֵמָה מְצוּיָה לְעוֹלֵי רְגָלִים.

The reason is **so that animals will be** readily **available to** those **ascending** to Jerusalem **for the pilgrimage Festivals.** The animals are tithed shortly before each of the Festivals so that their owners will refrain from selling or killing them until those times, when they gather them together to set aside the animal tithe. As a result, there are plenty of non-sacred animals ready to be sold, for food or offerings, to those on their way to Jerusalem.

וְאַף עַל גַּב דְּתָנַן: עַד שֶׁלֹּא הִגִּיעַ הַגּוֹרָן מוּתָּר לִמְכּוֹר וְלִשְׁחוֹט – נִיחָא לֵיהּ דְּלִיתְעֲבִיד מִצְוָה בְּמָמוֹנֵיהּ, וַהֲדַר לְזַבּוֹן וְלֵיכוֹל.

And even though we learned in the mishna: **Until the** time designated for **gathering arrives,** it is **permitted to sell and slaughter** the animals, which means that there is no obligation to keep the animals until those dates and there is no concern that the owners will sell the animals before tithing them. This is because a person **prefers to perform a mitzva with his money,** by separating the animal tithe, **and** only **afterward sell or eat** those animals.

PERSONALITIES

Ben Azzai – בֶּן עַזַּאי: This is referring to Shimon ben Azzai, one of the *tanna'im* in Yavne. Shimon ben Azzai was never ordained, which is why he does not have a title, and is usually referred to simply as ben Azzai. Nevertheless, he was considered one of the outstanding Sages and his wisdom was celebrated for many generations. Apparently, he did not learn Torah in his youth until he met Rabbi Akiva's daughter. She promised to marry him if he studied Torah. Consequently, he went to study with Rabbi Yehoshua and Rabbi Yishmael and was the primary student and a disciple-colleague of Rabbi Akiva, whom he considered the preeminent Sage of the generation.

It is unclear whether ben Azzai married at all; it is possible that he married Rabbi Akiva's daughter and left her a short time later due to his overwhelming desire to study Torah. He completely devoted himself to the Torah, as can be seen from the statement of the mishna (*Sota* 49a): After ben Azzai died, there were no more diligent people. His statements appear in both the Mishna and the Gemara. Apparently, he had several disciples in Tiberias, his city of residence.

Ben Azzai engaged in the study of esoteric wisdom, and was one of the four who entered the mystical orchard (*Ḥagiga* 14b). His entrance is described in the following terms: Ben Azzai peeked and died. The verse: "Precious in the sight of the Lord is the death of His saints" (Psalms 116:15), is quoted in reference to his death.

HALAKHA

All animals that are born from the first of Tishrei until the twenty-ninth of Elul – כָּל הַנּוֹלָדִים מֵאֶחָד בְּתִשְׁרֵי עַד עֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל: All animals born from the first of Tishrei until the twenty-ninth of Elul are tithed together. This *halakha* is in accordance with the ruling of Rabbi Elazar and Rabbi Shimon that the new year for animal tithes is the first of Tishrei, as theirs is the majority opinion (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:6).

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וְאַמַּאי קָרֵי לֵיהּ ״גּוֹרֶן״? דְּטָבְלָה כְּגוֹרֶן.

The Gemara asks: **And why does** the *tanna* **call** the time designated for gathering animal tithe ***goren,*** which literally means threshing floor? The Gemara explains that it is due to the fact **that** the arrival of this time **renders** the halakhic status of new animals like that of **untithed produce** gathered **on a threshing floor,**[N] as from the time that produce is gathered on the threshing floor one becomes obligated to tithe it. Likewise, from this stage onward it is prohibited to slaughter the new animals until they have been tithed.

וְכַמָּה ״פְּרָס״? פֵּירֵשׁ רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה: אֵין פְּרָס פָּחוֹת מֵחֲמִשָּׁה עָשָׂר יוֹם.

The mishna states that according to Rabbi Akiva the times for tithing animals are adjacent to Passover, *Shavuot*, and *Sukkot*. The Gemara asks: **And how much is adjacent** [***peras***]**?**[L] **Rabbi Yosei, son of Rabbi Yehuda, explained** that the term **adjacent** means **not less than fifteen days.**

מַאי מַשְׁמַע? אָמַר רַבִּי אַבָּהוּ: ״פְּרוֹס״ – פַּלְגָא. פַּלְגָא דְּמַאי? פַּלְגָא דְּהִלְכוֹת פֶּסַח, כִּי הָא דְּתַנְיָא: שׁוֹאֲלִין וְדוֹרְשִׁין בְּהִלְכוֹת פֶּסַח קוֹדֶם לַפֶּסַח שְׁלֹשִׁים יוֹם, רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: שְׁתֵּי שַׁבָּתוֹת.

The Gemara asks: **From where** is this **inferred? Rabbi Abbahu said** that the term ***peros*** means **half.** The Gemara inquires: **Half of what?** The Gemara answers: **Half of** the time during which one must learn **the *halakhot* of Passover,** and this is **like that which is taught** in a *baraita*: **One asks** about **and teaches the *halakhot* of Passover**[H] for **thirty days before Passover. Rabban Shimon ben Gamliel says:** One begins studying those *halakhot* **two weeks** before the Festival.

״בֶּן עַזַּאי אוֹמֵר: בְּעֶשְׂרִים וְתִשְׁעָה בַּאֲדָר, בְּאֶחָד בְּסִיוָן״. בְּמַאי קָמִיפַּלְגִי רַבִּי עֲקִיבָא וּבֶן עַזַּאי? רַבִּי עֲקִיבָא סָבַר: אֲדָר הַסָּמוּךְ לְנִיסָן זִימְנִין מָלֵא וְזִימְנִין חָסֵר, זִימְנִין דְּמִיקָּלַע בְּיוֹם שְׁלֹשִׁים וְזִימְנִין דְּמִיקָּלַע בְּעֶשְׂרִים וְתִשְׁעָה, וּמִשּׁוּם הָכִי לָא קָבִיעַ לֵיהּ זְמָן. וּבֶן עַזַּאי סָבַר: אֲדָר הַסָּמוּךְ לְנִיסָן לְעוֹלָם חָסֵר, הֵילְכָךְ קָבִיעַ לֵיהּ זְמָן בְּעֶשְׂרִים וְתִשְׁעָה בַּאֲדָר.

§ The mishna states that **ben Azzai says** the times are **on the twenty-ninth of Adar, on the first of Sivan,** and on the twenty-ninth of Av. The Gemara asks: **With regard to what** principle **do Rabbi Akiva,** who says fifteen days before Passover, **and ben Azzai,** who refers to the twenty-ninth of Adar, **disagree?** The Gemara answers: **Rabbi Akiva holds** that the month of **Adar that** immediately **precedes Nisan is sometimes a full** month of thirty days **and sometimes a defective** month of only twenty-nine days. Therefore, **sometimes** the fifteenth day before Passover **occurs on the thirtieth** of Adar **and sometimes it occurs on the twenty-ninth** of Adar. **Due to that** reason Rabbi Akiva **does not fix a time** by date, but simply states fifteen days before Passover. **And ben Azzai holds** that the **Adar that** immediately **precedes Nisan is always defective.**[H] **Therefore, he fixes a time** in the calendar that the animals must be tithed, which is **on the twenty-ninth of Adar.**

בְּאֶחָד בְּסִיוָן – אַיְיתֵי דְּלָא נְפִישִׁי, אִי אָמְרַתְּ לִיקְדִים לִיעֲשַׂר – עַד דְּמָטֵי רֶגֶל שַׁלְמֵי לְהוּ.

With regard to the fact that ben Azzai does not require fifteen days before *Shavuot* but maintains that the animals must be tithed on **the first of Sivan,** the reason is that **since** there are **not** so **many** animals born between the previous time of tithing and this one, **if you say that** the owner **should tithe earlier,** then **before the pilgrimage Festival arrives** all the animals will already be gone, their sales having been **completed.** If so, there will be no animals remaining for those coming to Jerusalem for *Shavuot*.

״בְּעֶשְׂרִים וְתִשְׁעָה בְּאָב״ וכו׳. בֶּן עַזַּאי לְטַעֲמֵיהּ, דְּאָמַר: הָאֲלוּלִין מִתְעַשְּׂרִין בִּפְנֵי עַצְמָן.

The mishna teaches that ben Azzai says the last gathering time is **on the twenty-ninth of Av,** rather than fifteen days before *Sukkot*. The Gemara notes that **ben Azzai** conforms **to his** standard line of **reasoning, as he said: The** animals born **in Elul are tithed by themselves,** because it is uncertain whether the new year for animal tithes begins on the first of Tishrei or the first of Elul. Consequently, he sets the time for animal tithe before the beginning of Elul to avoid the possibility of tithing animals born in one year with animals born in the next year.

וְלִיעַשְּׂרִינְהוּ בְּיוֹם שְׁלֹשִׁים! זִימְנִין דְּמִחַסְּרִין לֵיהּ לְאָב, וּבָעֵינַן לְמֶיעֱבַד הֲכִירָא בְּחָדָשׁ וְיָשָׁן.

The Gemara challenges: **But** if so, **let** him require that **one tithe** the animals **on the thirtieth day** of Av, which is the last day before Elul begins. The Gemara explains: **Sometimes** the month **of Av is defective,** i.e., it has only twenty-nine days, and therefore the thirtieth day after the start of Av is the first day of Elul. **And we are required to implement a distinction between the new** animals born in Elul **and the old** animals born in Av, which is considered to be the previous year.

NOTES

That it renders them like untithed produce on a threshing floor – דְּטָבְלָה כְּגוֹרֶן: These two cases are not identical in terms of *halakha*, as untithed grain is prohibited only for consumption, while the prohibition against selling it is merely due to concern that the purchaser might eat it (see *Demai* 5:8). By contrast, the Sages decreed that before separating animal tithe, it is prohibited both to slaughter the animals, i.e., to eat them, and to sell them, *ab initio*. If an animal was slaughtered or sold before the separation of animal tithe, it is not prohibited for consumption, whereas untithed produce is prohibited for consumption even after the fact, until it has been tithed.

LANGUAGE

Adjacent [*peras*] – פְּרָס: Some hold this word is related to the Greek πρὸς, *pros*, which has several meanings, including: Before, and: In consequence of.

HALAKHA

One asks about and teaches the *halakhot* of Passover – שׁוֹאֲלִין וְדוֹרְשִׁין בְּהִלְכוֹת פֶּסַח: It is customary to begin studying the *halakhot* of each Festival thirty days beforehand (*Baḥ*; *Magen Avraham*), as stated in the *baraita*. Some hold that this applies only to Passover, as that Festival has so many *halakhot* associated with it (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 429:1).

The Adar that precedes Nisan is always defective – אֲדָר הַסָּמוּךְ לְנִיסָן לְעוֹלָם חָסֵר: The Adar preceding Nisan is always a defective month of twenty-nine days, regardless of whether it is a regular year or a leap year. The *Leḥem Mishne* (on Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:8) is surprised that Rambam rules in accordance with the opinion of ben Azzai rather than that of Rabbi Akiva, as he rules in accordance with the opinion of Rabbi Akiva with regard to animal tithe, i.e., the times during the year designated for gathering (Rambam *Sefer Zemanim*, *Hilkhot Kiddush HaḤodesh* 8:5).

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״רַבִּי אֶלְעָזָר וְרַבִּי שִׁמְעוֹן אוֹמְרִים: בְּאֶחָד בְּנִיסָן בְּאֶחָד בְּסִיוָן״ וכו׳. בְּאֶחָד בְּנִיסָן – כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל דְּאָמַר: שְׁתֵּי שַׁבָּתוֹת, בְּאֶחָד בְּסִיוָן – כְּדַאֲמָרַן,

§ The mishna teaches that **Rabbi Elazar and Rabbi Shimon say** that the times are **on the first of Nisan, on the first of Sivan,** and on the twenty-ninth of Elul. The Gemara explains with regard to the first date: **On the first of Nisan,** this is **in accordance with** the opinion **of Rabban Shimon ben Gamliel, who says** one begins studying and teaching the *halakhot* of Passover **two weeks** before the Festival. And Rabbi Elazar and Rabbi Shimon hold that the second time for animal tithe is **on the first of Sivan,** and this is **as we said** with regard to the opinion of ben Azzai, so that there will be enough animals born since the previous time.

בְּעֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל – רַבִּי אֶלְעָזָר וְרַבִּי שִׁמְעוֹן לְטַעֲמַיְיהוּ, דְּאָמְרִי: בְּאֶחָד בְּתִשְׁרֵי רֹאשׁ הַשָּׁנָה לְמַעְשַׂר בְּהֵמָה.

Finally, they hold that the third time for animal tithe is **on the twenty-ninth of Elul,** since **Rabbi Elazar and Rabbi Shimon** conform **to their** standard line of **reasoning, as they say: On the first of Tishrei** is the **new year for animal tithe.** All animals born prior to that date belong to the previous year for tithe and are tithed as a single unit, whereas those born after that date belong to the next year for tithe, and therefore there is a distinction drawn between the new animals and the old.

״וְלָמָּה אָמְרוּ בְּעֶשְׂרִים וְתִשְׁעָה בֶּאֱלוּל וְלֹא אָמְרוּ בְּאֶחָד בְּתִשְׁרֵי – מִפְּנֵי שֶׁהוּא יוֹם טוֹב״ וכו׳. וְתֵיפּוֹק לֵיהּ דְּבָעֵינַן לְמֶעֱבַד הֶבְיְרָא בְּחָדָשׁ וְיָשָׁן!

§ The mishna teaches: **And why did** Rabbi Elazar and Rabbi Shimon **say the twenty-ninth of Elul and** why **did they not say the first of Tishrei?** It is **due to** the fact **that** the first of Tishrei **is** the **festival** of Rosh HaShana and one cannot tithe on a Festival; consequently, they brought it earlier, to the twenty-ninth of Elul. The Gemara raises a difficulty: **But let** the mishna **derive it** from the fact **that we require a distinction between the new** animals born in Tishrei **and the old** animals born in Elul, which is considered to be the previous year.

חֲדָא וְעוֹד קָאָמַר, חֲדָא – דְּבָעֵינַן לְמֶעֱבַד הֶבְיְרָא בְּחָדָשׁ וְיָשָׁן, וְעוֹד – מִפְּנֵי שֶׁהוּא יוֹם טוֹב, וְאִי אֶפְשָׁר לְעַשֵּׂר בְּיוֹם טוֹב, מִשּׁוּם סַקְרְתָּא.

The Gemara answers: The mishna **states one** reason **and** adds **another. One** reason is **that we require a distinction between the new** animals **and the old** animals. **And another** reason is **because it is** the **festival** of Rosh HaShana **and one cannot tithe on a Festival, due to the *sakreta*,** a lead-based red paint for marking every tenth animal, as explained on 58b. It is prohibited to apply paint on a Festival.

״רַבִּי מֵאִיר אוֹמֵר: בְּאֶחָד בֶּאֱלוּל רֹאשׁ הַשָּׁנָה לְמַעְשַׂר בְּהֵמָה. בֶּן עַזַּאי אוֹמֵר״ וכו׳. תַּנְיָא: אָמַר בֶּן עַזַּאי, הוֹאִיל וְהַלָּלוּ אוֹמְרִים כָּךְ, וְהַלָּלוּ אוֹמְרִים כָּךְ – הָאֱלוּלִין מִתְעַשְּׂרִין לְעַצְמָן.

§ The mishna teaches that **Rabbi Meir says:** The beginning of **the new year for animal tithe is on the first of Elul. Ben Azzai says:** The animals born in Elul are tithed by themselves, due to the uncertainty as to whether the *halakha* is in accordance with the opinion of Rabbi Meir or in accordance with the opinion of Rabbi Elazar and Rabbi Shimon. The Gemara notes that **it is taught** in a *baraita* that **ben Azzai said: Since these** Rabbis, Rabbi Elazar and Rabbi Shimon, **say this,** that the first of Tishrei is the beginning of the new year for animal tithe, **and those,** i.e., Rabbi Meir, **say that** the first of Elul is the beginning of the new year for animal tithe, **the** animals born in **Elul are tithed by themselves.**

וְלֵיחֲזֵי טַעֲמֵיהּ דְּמַאן מִסְתַּבַּר! וְכִי תֵּימָא: לָא מָצֵי קָאֵי אַטַּעְמֵיהּ – וְהָתַנְיָא, בֶּן עַזַּאי אוֹמֵר: כָּל חַכְמֵי יִשְׂרָאֵל דּוֹמִין עָלַי כִּקְלִיפַּת הַשּׁוּם, חוּץ מִן הַקֵּרֵחַ הַזֶּה!

The Gemara raises a difficulty: **But let** ben Azzai **see whose opinion** is more **reasonable,** and decide accordingly. **And if you would say** that **it is not possible** for him **to establish their reasoning,** that is difficult: **But it is taught** in a *baraita* that **ben Azzai says: All the Sages of Israel appear to me** to be as unimpressive in their intellect **as garlic peel,**[N] **except for this bald** one,[N] i.e., Rabbi Akiva.

NOTES

Ben Azzai says: All the Sages of Israel appear to me as garlic peel – בֶּן עַזַּאי אוֹמֵר כָּל חַכְמֵי יִשְׂרָאֵל דּוֹמִין עָלַי כִּקְלִיפַּת הַשּׁוּם: Some explain that ben Azzai is describing the relationship between himself and the other Sages. Ben Azzai describes himself as being as sharp as garlic, and one who is therefore able to delve into deep matters. Nevertheless, his brilliance is protected by the other Sages so that he does not become confused and err, and consequently they are likened to the peel of the garlic, which protects it. The bald one, i.e., Rabbi Akiva, is able to look after his own brilliance and does not need the other Sages to protect him (*Iyyun Ya'akov*).

Others explain that ben Azzai is referring to his ability to understand the depths of the opinions of the Sages and to separate the main ideas from the secondary, like one separates the peel of the garlic from the garlic itself. Nevertheless, he is unable to penetrate the opinions of Rabbi Akiva (*Arukh HaShalem*).

Except for this bald [*kere'aḥ*] one – חוּץ מִן הַקֵּרֵחַ הַזֶּה: Rashi explains that this refers to Rabbi Akiva, and that due to his baldness, his son was known as Rabbi Yehoshua ben Korḥa. Others maintain that it is referring to Rabbi Elazar ben Azaria, who is described in the Jerusalem Talmud as bald (Rabbeinu Nissim Gaon). Alternatively, Kere'aḥ is not a description but the name of a Sage (*Tosafot*, citing Rabbeinu Tam).

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אָמַר רַבִּי יוֹחָנָן: מִפִּי הַשְּׁמוּעָה אֲמָרוּהָ, מִפִּי חַגַּי זְכַרְיָה וּמַלְאָכִי.

Rabbi Yoḥanan says that ben Azzai was unable to establish their reasoning in this particular case, as **they said** their opinions **by tradition, from** a chain of transmission stretching back to **Haggai, Zechariah, and Malachi,** the last of the prophets. Each Sage claimed his tradition concerning their ruling was the correct one. Since this dispute is based on tradition, it cannot be resolved by logical reasoning.

תַּנְיָא: בְּאֵיזֶה צַד אָמַר בֶּן עַזַּאי הָאֱלוּלִים מִתְעַשְּׂרִין לְעַצְמָן? נוֹלְדוּ לוֹ חֲמִשָּׁה בְּאָב וַחֲמִשָּׁה בֶּאֱלוּל – אֵין מִצְטָרְפִין, חֲמִשָּׁה בֶּאֱלוּל וַחֲמִשָּׁה בְּתִשְׁרֵי – אֵין מִצְטָרְפִין, חֲמִשָּׁה בְּתִשְׁרֵי וַחֲמִשָּׁה בְּאָב – מִצְטָרְפִין.

It is taught in a *baraita*: **In what manner** did **ben Azzai say** that animals born in **Elul are tithed by themselves?** For example, if **five** animals **were born in Av and five** were born **in Elul, they do not combine** to make ten animals that require tithing. Likewise, if **five** were born **in Elul and five in Tishrei, they do not combine.** But if **five** were born **in Tishrei and five** were born **in** the following **Av, they do combine.**

פְּשִׁיטָא! מַהוּ דְּתֵימָא: כִּי הֵיכִי דְּמַפְסְקִי שָׁנִים מַפְסְקִי גְּרָנוֹת – קָא מַשְׁמַע לָן,

The Gemara asks: This is **obvious;** what is the novelty of the ruling of the *baraita*? The Gemara answers: This ruling is necessary **lest you say** that **just as years separate** between animals that may be tithed together, so too, the designated times for **gathering** and tithing the animals **separate** between those animals born before and after each one of them. If so, animals born in Tishrei and those born in the following Av would not combine. Therefore, the *baraita* **teaches us** that these designated times do not prevent animals born before and after them from being tithed together.

כְּדִתְנַן: חֲמִשָּׁה לִפְנֵי רֹאשׁ הַשָּׁנָה וַחֲמִשָּׁה לְאַחַר רֹאשׁ הַשָּׁנָה – אֵין מִצְטָרְפִין, חֲמִשָּׁה לִפְנֵי הַגּוֹרָן וַחֲמִשָּׁה לְאַחַר הַגּוֹרָן – הֲרֵי אֵלּוּ מִצְטָרְפִין.

This is **as we learned** in the mishna: If **five** were born **before Rosh HaShana and five after Rosh HaShana,** those animals **do not combine** to be tithed; if **five** were born **before** the time designated for **gathering and five after** the time designated for **gathering, those** animals **combine** to be tithed.

אָמַר רָבָא: לְדִבְרֵי בֶן עַזַּאי, נוֹלְדוּ לוֹ חֲמִשָּׁה בְּאָב, וַחֲמִשָּׁה בֶּאֱלוּל, וַחֲמִשָּׁה בְּתִשְׁרֵי – כּוֹנְסָן לַדִּיר לְהִתְעַשֵּׂר,

Rava says: According to the statement of ben Azzai, if **five** animals **were born in Av and five** animals were born **in Elul and five** animals were born **in Tishrei,** the owner **gathers them** all **in a pen to be tithed,**

Perek **IX**
Daf **58** Amud **b**

וְנוֹטֵל אֶחָד מִן הָאֱלוּלִין, וְהַשְּׁאָר פְּטוּרִין מִמַּה נַּפְשָׁךְ: אִי בְּאֶחָד בֶּאֱלוּל רֹאשׁ הַשָּׁנָה – דֶּאֱלוּל וְתִשְׁרֵי מִצְטָרְפִין, וּדְאָב פְּטוּרִים; וְאִי בְּאֶחָד בְּתִשְׁרֵי רֹאשׁ הַשָּׁנָה – דְּאָב וֶאֱלוּל מִצְטָרְפִין, דְּתִשְׁרֵי פְּטוּרִין;

and he takes one of the animals born **in Elul** as the tithe, **and the remainder are exempt, whichever** way **you** look at it. Rava explains: **If the new year** for animal tithe **is on the first of Elul,** then the animals born **in Elul and Tishrei combine** to form a total of ten, **and** the animals born **in Av are exempt,** as they are from the previous year and there are less than ten of them. **And if the new year is on the first of Tishrei,** the animals born **in Av and Elul combine** to form a total of ten, whereas the animals born **in Tishrei are exempt.**

מַאי אָמְרַתְּ, לְיַצְרְפוּ לְגוֹרָן אַחֵר – עֲשִׂירִי וַדַּאי אָמַר רַחֲמָנָא, וְלֹא סָפֵק.

The Gemara raises a difficulty with regard to the opinion of Rava: **What are you saying?** Why are the five animals born in Tishrei exempt? **Let them combine** with animals at **another** time of **gathering** to form a total of ten. Rather, what is the reason one is not required to tithe these five animals born in Tishrei? It is because **the Merciful One states:** "And all the tithe of the herd or the flock, whatever passes under the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32), from which it is derived that **a definite tenth**[H] must be tithed, **and not an uncertain tenth,** i.e., an animal that is not definitely the tenth. If the first of Elul is the new year, then the five born in Tishrei would have combined with the five of Elul and are exempt. Therefore, the obligation in this case is uncertain.

HALAKHA

The Merciful One states a definite tenth – עֲשִׂירִי וַדַּאי אָמַר רַחֲמָנָא: Any animal with regard to which there is uncertainty as to whether or not it is included in the animals to be tithed is exempt from animal tithe (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:16).

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BACKGROUND

Red paint – סִיקְרָא: This was a red paint used for several purposes, including painting and writing. It was apparently manufactured from a base of lead oxide.

פְּשִׁיטָא! מַהוּ דְּתֵימָא לִגְזוֹר דִּילְמָא אָתֵי לְמִישְׁקַל מֵהָנָךְ – קָא מַשְׁמַע לָן.

Rava said he takes one of the animals born in Elul as the tithe. The Gemara asks: Isn't it **obvious** that he must take one of those animals, as those are the only ones concerning which the obligation is definite? The Gemara answers: It is necessary for Rava to specify this **lest you say** the Sages **should decree** that one should not even take one of the animals born in Elul as a tithe, as **perhaps he** might **come to take from those** that were born in Av or Tishrei by mistake. Therefore, Rava **teaches us** that the Sages are not concerned about this error.

מתני׳ בְּאֵי זֶה צַד מְעַשְּׂרִין? כּוֹנְסָן לַדִּיר, וְעוֹשֶׂה לָהֶם פֶּתַח קָטָן כְּדֵי שֶׁלֹּא יְהוּ שְׁנַיִם יְכוֹלִין לָצֵאת כְּאַחַת, וּמוֹנִין: "אֶחָד" "שְׁנַיִם" "שְׁלֹשָׁה" "אַרְבָּעָה" "חֲמִשָּׁה" "שִׁשָּׁה" "שִׁבְעָה" "שְׁמוֹנָה" "תִּשְׁעָה", וְהַיּוֹצֵא עַשִּׂירִי סוֹקֵר בְּסִיקְרָא וְאוֹמֵר: "זֶהֵרִי זֶה מַעֲשֵׂר". לֹא סְקָרוֹ בְּסִיקְרָא, וְלֹא מְנָאָן בְּשֶׁבֶט, אוֹ שֶׁמְּנָאָן וְרבּוּיִם אוֹ עוֹמְדִים – הֲרֵי אֵלּוּ מִתְעַשְּׂרִין.

MISHNA **In what manner does one tithe**[H] the animals? **He gathers them in a pen and provides them with a small,** i.e., narrow, **opening, so that two** animals **will not be able to emerge together. And he counts** the animals as they emerge: **One, two, three, four, five, six, seven, eight, nine; and he paints** the animal **that emerges tenth with red paint**[B] **and declares: This is tithe.** Even if **he did not paint it with red paint, or if he did not count** the animals **with a rod** in accordance with the verse: "Whatever passes under the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32), **or if he counted** the animals when they were **prone or standing**[H] in place and did not make them pass through a narrow opening, **these** animals **are tithed** after the fact.

הָיָה לוֹ מֵאָה וְנָטַל עֲשָׂרָה, עֲשָׂרָה וְנָטַל אֶחָד – אֵין זֶה מַעֲשֵׂר; רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: מַעֲשֵׂר. קָפַץ אֶחָד מִן הַמְּנוּיִין לְתוֹכָן – הֲרֵי אֵלּוּ פְּטוּרִין, מִן הַמְּעוּשָּׂרִין לְתוֹכָן – כּוּלָּם יִרְעוּ עַד שֶׁיִּסְתָּאֲבוּ, וְיֵאָכְלוּ בְּמוּמָן לַבְּעָלִים.

But **if he had one hundred** animals **and he took ten** as tithe, or if he had **ten** animals **and he** simply **took one**[H] as tithe, **that is not tithe,** as he did not count them one by one until reaching ten. **Rabbi Yosei, son of Rabbi Yehuda, says:** In that case too, it is **tithe.** If before the owner completed tithing his animals, **one of** those already **counted jumped** back into the pen **among** the animals that had not yet been counted,[H] **all those** in the pen **are exempt** from being tithed, as each of them might be the animal that was already counted. If one **of** those animals that had been **tithed,** i.e., designated as the tenth, jumped back into the pen **among** the animals that had not yet been counted,[H] creating uncertainty with regard to all the animals there which was the animal tithe, **all** the animals **must graze until they become unfit** for sacrifice, **and** each of them **may be eaten in its blemished** state **by** its **owner** once it develops a blemish.

גמ׳ תָּנוּ רַבָּנַן: בְּאֵי זֶה צַד מְעַשֵּׂר? כּוֹנְסָן לַדִּיר, וְעוֹשֶׂה לָהֶם פֶּתַח קָטָן כְּדֵי שֶׁלֹּא יְהוּ שְׁנַיִם יְכוֹלִין לָצֵאת כְּאֶחָד, אִימּוֹתֵיהֶם מִבַּחוּץ וְהֵם מִבִּפְנִים, וְגוֹעוֹת, וְיוֹצְאוֹת לִקְרַאת אִמָּן.

GEMARA **The Sages taught** in a *baraita*: **In what manner does** one **tithe** his animals? **He gathers them in a pen and provides them with a small,** i.e., narrow, **opening so that two** animals **will not be able to emerge together. The mothers** of those animals stand **outside, and** the newborn animals to be tithed **are inside** the pen. **And** the mothers **bleat and** the young ones **emerge toward their mothers.**

HALAKHA

In what manner does one tithe – בְּאֵי זֶה צַד מְעַשְּׂרִין: How does one tithe the animal tithe? He gathers all his lambs, kids, or calves into a pen and fashions a small opening so that they can come out only one at a time. He places their mothers outside and they bleat such that their young hear them and come out by themselves from the pen. The owner does not force them out by hand. When they emerge from the pen he begins to count them as they pass under the rod: One, two, three, and so forth. He paints the animal that is the tenth with red paint, whether it is male or female, and whether it is blemished or unblemished, and says: This is tithe (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:1).

Even if he did not paint it with red paint or if he did not count with a rod or if he counted them prone or standing – לֹא סְקָרוֹ בְּסִיקְרָא וְלֹא מְנָאָן בְּשֶׁבֶט אוֹ שֶׁמְּנָאָן וְרבּוּיִם אוֹ עוֹמְדִים: If one did not mark the tenth animal with paint, or did not count the animals with a rod, or counted them when they were prone or standing, it is still animal tithe (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:1).

If he had one hundred and he took ten or if he had ten and he took one – הָיָה לוֹ מֵאָה וְנָטַל עֲשָׂרָה עֲשָׂרָה וְנָטַל אֶחָד: If one had ten lambs and removed one as tithe, or he had one hundred and removed ten, those animals are not sanctified as animal tithe (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:1).

If one of those counted jumped back into the pen among the animals that had not yet been counted – קָפַץ אֶחָד מִן הַמְּנוּיִין לְתוֹכָן: If one was counting the animals as they came out of the pen one at a time, and one of those that had already been counted jumped back into the pen and became intermingled with the uncounted animals, they are all exempt from animal tithe, as it is uncertain with regard to each of them whether or not it has been counted (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:16, 8:14).

If one of those tithed jumped back into the pen among the animals that had not yet been counted – קָפַץ אֶחָד...מִן הַמְּעוּשָּׂרִין לְתוֹכָן: If one of the animals counted as the tenth jumps back into the pen and becomes intermingled with animals that have not yet been counted, all the animals in the pen must be left to graze until they develop a blemish, after which they may be eaten (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:15).

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וְלִפְקִינְהוּ אִינְהוּ! ״יַעֲבֹר״ כְּתִיב – וְלֹא שֶׁיַּעֲבִירוּהוּ.

The Gemara asks: **But** why is it performed this way? Let the owner simply **make them emerge** from the pen by pushing them. The Gemara answers that it is **written:** "Whatever **passes** under the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32). This means that the animal must pass under the rod of its own volition, **and not that** one **will cause it to pass** by pushing it out of the pen.

וְלִשְׁדֵּי לְהוּ יָרְקָא וְלִיפְקוּ לְוָתֵיהּ! אָמַר רַב הוּנָא: גְּזֵירָה מִשּׁוּם לָקוּחַ וּמִשּׁוּם יָתוֹם.

The Gemara asks: **But** why not simply **throw** the animals **a vegetable** outside the pen, **and they will go out toward it** to eat it? **Rav Huna said:** The use of the mothers is a rabbinic **decree due to a purchased** animal **and due to an orphan,** i.e., a baby animal whose mother died before it was born. Neither of these animals is subject to tithing. Since neither a purchased animal nor an orphaned animal will have its mother outside calling to it, these animals will remain in the pen and will not be tithed accidentally.

תָּנוּ רַבָּנַן: ״כֹּל אֲשֶׁר יַעֲבֹר תַּחַת״ – פָּרַט לִטְרֵיפָה שֶׁאֵינָהּ עוֹבֶרֶת, ״תַּחַת הַשָּׁבֶט״ – מִצְוָה לִמְנוֹתָן בְּשֵׁבֶט. לֹא מָנָאן בְּשֵׁבֶט, אוֹ שֶׁמָּנָאן רְבוּיִים אוֹ עוֹמְדִים מִנַּיִן? תַּלְמוּד לוֹמַר: ״הָעֲשִׂירִי קֹדֶשׁ״ – מִכָּל מָקוֹם.

The Sages taught in a *baraita*: "**Whatever passes under** the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32); this teaches that all animals may be sanctified as animal tithe, **excluding a *tereifa*,**[H] **as** on account of its physical state **it does not pass** under the rod. The phrase "**under the rod**" teaches that it is **a mitzva to count them with a rod. If one did not count them with a rod, or he counted them** when they were **prone or standing, from where** is it derived that the tenth animal is nevertheless sanctified? **The verse states: "The tenth shall be sacred,"** indicating that the tenth animal is sacred **in any case,** even if it was not tithed correctly.

וְאֵין לִי אֶלָּא שֶׁקָּרָא שְׁמוֹ ״עֲשִׂירִי״, לֹא קָרָא שְׁמוֹ ״עֲשִׂירִי״ מִנַּיִן? תַּלְמוּד לוֹמַר: ״יִהְיֶה קֹדֶשׁ״ – מִכָּל מָקוֹם. יָכוֹל הָיוּ לוֹ מֵאָה וְנָטַל עֲשָׂרָה, עֲשָׂרָה וְנָטַל אֶחָד, יָכוֹל יִהְיוּ מְעוּשָּׂרִין? תַּלְמוּד לוֹמַר: ״עֲשִׂירִי״ – וְאֵין זֶה עֲשִׂירִי. רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: מַעֲשֵׂר.

The *baraita* continues: **And I have** derived **only that** an animal that **one** explicitly **called** by the **name of** the **tenth** one is the animal tithe. **From where** do I derive that the tenth animal is sanctified even if **one did not** explicitly **call** it **the tenth** one? **The verse states: "Shall be sacred."** This teaches that it shall be sacred **in any case,** even if it was not called the tenth. One **might** have thought with regard to **one** who **had one hundred** animals **and** simply **took ten** of them without counting them, or one who had **ten** animals **and took one** of them without counting, one **might** have thought that **they should be** considered **tithed.** Therefore, **the verse states: "The tenth," and this** animal that he removed **is not the tenth,** as he did not count the animals. **Rabbi Yosei, son of Rabbi Yehuda, says:** Even if he simply removed one animal from ten without counting, that animal is **tithe.**

מַאי טַעֲמֵיהּ דְּרַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה? סָבַר לֵיהּ כְּאַבָּא אֶלְעָזָר בֶּן גּוּמֶל. דְּתַנְיָא, אַבָּא אֶלְעָזָר בֶּן גּוּמֶל אוֹמֵר: ״וְנֶחְשַׁב לָכֶם תְּרוּמַתְכֶם״ – בִּשְׁתֵּי תְרוּמוֹת הַכָּתוּב מְדַבֵּר, אַחַת תְּרוּמָה גְּדוֹלָה וְאַחַת תְּרוּמַת מַעֲשֵׂר,

The Gemara asks: **What is the reason of Rabbi Yosei, son of Rabbi Yehuda?** The Gemara answers: **He holds in accordance with** the opinion of **Abba Elazar ben Gomel.**[P] **As it is taught** in a *baraita* that **Abba Elazar ben Gomel says** with regard to the verse: **"And your *teruma* shall be reckoned to you** as though it were the grain of the threshing floor" (Numbers 18:27), that in using the plural form of the term "your," **the verse speaks about two *terumot*. One is standard *teruma*,** i.e. the grain of the threshing floor, **and** the other **one is *teruma* of the tithe.** The verse equates these two *terumot*.

כְּשֵׁם שֶׁהַתְּרוּמָה גְּדוֹלָה נִיטֶּלֶת בְּאוֹמֶד וּבְמַחֲשָׁבָה,

Abba Elazar ben Gomel explains: **Just as standard *teruma* is taken by estimate,** as there is no requirement for the amount separated to be measured precisely, **and** it can be taken **by thought,**[H] as one is not required to physically separate it before consuming the remaining produce,

HALAKHA

Excluding a *tereifa* – פָּרַט לִטְרֵיפָה: A *tereifa* does not enter the pen to be tithed with the other animals (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:14).

Standard *teruma* is taken by estimate and by thought – תְּרוּמָה גְּדוֹלָה נִיטֶּלֶת בְּאוֹמֶד וּבְמַחֲשָׁבָה: One may not separate standard *teruma* by volume, weight, or number, because the Torah did not set a specific amount for *teruma*. Rather, he estimates and mentally sets aside a certain proportion of the produce, e.g., one-fortieth if he is generous (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 3:4, 4:16; *Shulḥan Arukh*, *Yoreh De'a* 331:19, 46).

PERSONALITIES

Abba Elazar ben Gomel – אַבָּא אֶלְעָזָר בֶּן גּוּמֶל: This is the only *halakha* attributed to this *tanna*, although due to its importance it is cited in several places.

Abba Elazar ben Gomel is also known as ben Gamla or ben Gimmel. These are apparently shortened forms of ben Gamliel, as this is what he is called in the *Sifrei*. A Sage by this name is depicted as engaging in disputes with the *tanna* Rabbi Yishmael, a younger contemporary of Rabbi Akiva, which indicates that Abba Elazar ben Gomel lived in their generation. It is also indicated by the term: Abba, an honorific bestowed upon several Sages from that time.

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HALAKHA

Teruma of the tithe may be taken by estimate and by thought – תְּרוּמַת מַעֲשֵׂר נִטֶּלֶת בְּאוֹמֶד וּבְמַחֲשָׁבָה: One may not set aside *teruma* of the tithe by estimate. Rather, one must separate a precise amount even nowadays, as its measure applies by Torah law. The *halakha* is in accordance with the ruling found in the Jerusalem Talmud in tractate *Terumot*, and not in accordance with the opinion of Abba Elazar ben Gomel. One may separate *teruma* by thought alone, as the Rabbis do not disagree with Abba Elazar ben Gomel on this point (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 3:10).

If one called the ninth animal the tenth and the tenth died in the pen – קָרָא לַתְּשִׁיעִי עֲשִׂירִי וּמֵת עֲשִׂירִי בַּדִּיר: If one designated the ninth animal as the tenth and the actual tenth animal remained in the pen and died there, the ninth may be eaten only once it develops a blemish. The eight that had already left the pen are exempt from further tithing, despite the fact that this means no tithe is fit to be brought as an offering. The reason is that a tally fit to reach ten exempts the other animals (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:8, and see Mahari Kurkus there).

אַף תְּרוּמַת מַעֲשֵׂר נִטֶּלֶת בְּאוֹמֶד וּבְמַחֲשָׁבָה, וּמַעֲשֵׂר קָרְייֵהּ רַחֲמָנָא ״תְּרוּמָה״, דִּכְתִיב: ״כִּי אֶת מַעְשַׂר בְּנֵי יִשְׂרָאֵל אֲשֶׁר יָרִימוּ לַה׳ תְּרוּמָה נָתַתִּי לַלְוִיִּם לְנַחֲלָה״. וְאִיתְקַשׁ מַעְשַׂר בְּהֵמָה לְמַעְשַׂר דָּגָן, מַה מַּעְשַׂר דָּגָן נִיטָּל בְּאוֹמֶד וּבְמַחֲשָׁבָה – אַף מַעְשַׂר בְּהֵמָה נִיטָּל בְּאוֹמֶד וּבְמַחֲשָׁבָה.

so too, *teruma* of the tithe may be taken by estimate and by thought.[HN] **And** this ruling of Abba Elazar ben Gomel's also applies to tithes of the grain, because **the Merciful One calls tithe "*teruma*," as it is written: "For the tithe of the children of Israel, which they set apart as *teruma* for the Lord, I have given to the Levites for an inheritance"** (Numbers 18:24). **And animal tithe is juxtaposed to grain tithe,** as is derived from the verse: "You shall tithe a tithe" (Deuteronomy 14:22; see 53b). **Just as grain tithe is separated by estimate and by thought, so too, animal tithe is separated by estimate and by thought.** For this reason, Rabbi Yosei, son of Rabbi Yehuda, maintains that even with regard to an animal that was not counted, if it was separated as tithe the separation is valid.

אָמַר רָבָא: עֲשִׂירִי מֵאֲלָיו הוּא קָדוֹשׁ. מְנָא לֵיהּ לְרָבָא הָא? אִילֵימָא מֵהָא דְּתַנְיָא: אֵין לִי אֶלָּא שֶׁקָּרָא שְׁמוֹ ״עֲשִׂירִי״, לֹא קָרָא שְׁמוֹ ״עֲשִׂירִי״ מְנַיִן? תַּלְמוּד לוֹמַר: ״עֲשִׂירִי יִהְיֶה קֹדֶשׁ״ – מִכָּל מָקוֹם.

Rava says: If one counted nine animals and the **tenth** animal remains in the pen, **it is sacred** as the animal tithe **of its own** accord, even if it does not leave the pen and was not counted. The Gemara asks: **From where does Rava** derive **this** *halakha*? **If we say** he derives it **from that which is taught** in the aforementioned *baraita*, this is problematic. The Gemara cites the *baraita* again: And **I have** derived **only that** an animal that **one** explicitly **called** by the **name of** the **tenth** one is the animal tithe. **From where** do I derive that the tenth animal is sanctified even if **one did not** explicitly **call** it **the tenth** one? **The verse states: "The tenth shall be sacred,"** i.e., it shall be sacred **in any case,** even if it was not called the tenth. The suggestion is that Rava understands from here that the tenth is sacred even if it was not counted, provided there was a counting. Consequently, it makes no difference whether or not the owner called it the tenth or left it in the pen.

וְדִלְמָא: ״עֲשִׂירִי״ הוּא דְּלָא קְרָייֵהּ, ״קֹדֶשׁ״ קְרָייֵהּ! אֶלָּא מֵהָא דְּתַנְיָא: קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וְיָצָא הָעֲשִׂירִי וְלֹא דִּבֵּר – הַתְּשִׁיעִי נֶאֱכָל בְּמוּמוֹ וְהָעֲשִׂירִי מַעֲשֵׂר.

The Gemara rejects this suggestion: **But perhaps** this *baraita* is referring specifically to a case where **he did not call** that animal the **tenth,** but **he did call it sanctified. Rather,** the Gemara suggests that Rava derives it **from that which is taught** in a *baraita*: If **one** erred and **called the ninth** animal **the tenth, and the tenth** animal **emerged** from the pen **but** the owner **did not speak, the ninth** animal is not sanctified and is not brought as an offering. But since it was called the tenth, it may be **eaten** only once it develops **a blemish. And the tenth** animal is the animal **tithe.** It is possible that Rava maintains that just as the tenth is sacred in this case, when the owner remained silent, the same applies if he left it in the pen.

וְדִלְמָא שָׁאנֵי הָתָם דְּאִיבָּרַר לֵיהּ עֲשִׂירִי, אִי נַמִי דְּאַחֲוֵי עִילָּוֵיהּ!

The Gemara rejects this suggestion as well: **But perhaps it is different there, as the tenth** animal **was selected** when it emerged from the pen, despite the fact that it was not counted verbally. **Alternatively,** the reason it is sanctified is **that he pointed at it** as it emerged, although he did not explicitly say that it was the tenth animal. Conversely, in a case where it remained in the pen perhaps it does not have any sanctity at all.

אֶלָּא מֵהָא, דְּתַנְיָא: קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וּמֵת עֲשִׂירִי בַּדִּיר – תְּשִׁיעִי נֶאֱכָל בְּמוּמוֹ, וְכוּלָּם פְּטוּרִין; מַאי טַעֲמָא כּוּלָּם פְּטוּרִין – לָאו מִשּׁוּם דְּקָדֵשׁ לֵיהּ עֲשִׂירִי?

Rather, the Gemara suggests that Rava derives his *halakha* **from that which is taught** in a *baraita*: If **one** erred and **called the ninth** animal the **tenth, and** the **tenth** animal **died in the pen,**[H] the **ninth** animal may be **eaten** only once it develops **a blemish, and all** the other animals **are exempt** from having to be tithed again. The Gemara clarifies this ruling: **What is the reason** that **all** the other animals **are exempt?** Is it **not because** the **tenth** animal **is sanctified** of its own accord, even without emerging from the pen?

NOTES

So too *teruma* of the tithe may be taken by estimate and by thought – אַף תְּרוּמַת מַעֲשֵׂר נִטֶּלֶת בְּאוֹמֶד וּבְמַחֲשָׁבָה: Some of the early commentaries maintain that thought alone is effective, without any accompanying speech or action (Rashi on *Menaḥot* 55a; *Tosafot*; Rambam *Sefer Zera'im*, *Hilkhot Terumot* 4:16). Others claim that one must formulate this thought verbally (*Tosefot Rid* on *Shabbat* 142b; see Rashi here and *Tosafot* on *Menaḥot* 55a). Still others contend that in the case of *teruma* by Torah law an act of separation is required, but provided that one performs an act of separation, the thought accompanying the action is enough without a verbal declaration (*Sha'ar HaMelekh*, explaining Rambam; Ra'avya; Rashba).

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וְדִלְמָא דְּאִיפְּטְרוּ בְּמִנְיַן הָרָאוּי, דְּהָאָמַר רָבָא: מִנְיַן הָרָאוּי פּוֹטֵר!

The Gemara rejects this suggestion as well: **But perhaps** the other animals **are exempt** because they were counted **in a tally that is fit** to reach ten. **As doesn't Rava say: A tally fit** to reach ten **exempts** from the obligation of tithe? If one began counting lambs for the purpose of tithing and at that stage the group was fit to be tithed, but ultimately he was unable to separate the tithe, e.g., if one of the animals died and there were only nine left, those that were counted while the tally was fit to reach ten are exempt from being tithed. Moreover, the owner is not required to include them in the tithe on the following occasion.

אֶלָּא מֵהָא, דְּתַנְיָא: קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וְנִשְׁתַּיֵּיר עֲשִׂירִי בַּדִּיר – הַתְּשִׁיעִי נֶאֱכָל בְּמוּמוֹ, וְהָעֲשִׂירִי מַעֲשֵׂר. וְהָתַנְיָא: תְּשִׁיעִי חוּלִּין!

Rather, the Gemara suggests that Rava derives his *halakha* **from that which is taught** in a *baraita*: If **one** erred and **called the ninth** animal the **tenth, and** the **tenth** animal **remained in the pen,**[H] **the ninth** animal may be **eaten** only once it develops **a blemish, and the tenth** animal **is** the animal **tithe.** The tenth animal has sanctity even though it has not left the pen. The Gemara asks: **But isn't it taught** in a *baraita* that in such a case the **ninth** animal **is non-sacred?**

תָּנֵי תַּנָּא קַמֵּיהּ דְּרַב שֵׁשֶׁת: הָא מַנִּי – רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה הִיא, דְּתַנְיָא, רַבִּי שִׁמְעוֹן בֶּן יְהוּדָה אוֹמֵר מִשּׁוּם רַבִּי שִׁמְעוֹן:

A *tanna*[L] taught before Rav Sheshet: In accordance with **whose** opinion **is this?** It **is** in accordance with the opinion of **Rabbi Shimon ben Yehuda, as it is taught** in a *baraita* that **Rabbi Shimon ben Yehuda says in the name of Rabbi Shimon:**

HALAKHA

If one called the ninth animal the tenth and the tenth remained in the pen – קָרָא לַתְּשִׁיעִי עֲשִׂירִי וְנִשְׁתַּיֵּיר עֲשִׂירִי בַּדִּיר: If one designated the ninth animal as the tenth, and the actual tenth remained in the pen, the ninth may be eaten only once it has developed a blemish. The tenth animal remaining in the pen is the tithe even if it does not emerge from the pen, as the tenth animal is sanctified of its own accord. This *halakha* is in accordance with the *baraita* and the opinion of Rava (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 8:8, and see 8:1).

LANGUAGE

***Tanna* – תַּנָּא:** This term has two meanings. It refers either to a Sage of the mishnaic period or to one who taught *mishnayot*, which is the case here. The task of this *tanna* was extremely important, as at one time it was prohibited to write down *mishnayot* (see *Gittin* 60b), and therefore it was necessary to have someone in the academy who would recite *mishnayot* and *baraitot* from memory.

The *tanna* had to repeat the *mishnayot* before the *amora'im* exactly as he had received them; it was not his responsibility to explain or question the statements, nor to answer or resolve contradictions. Indeed, the *tanna* was often not a great scholar, and those who issue halakhic rulings based on their knowledge of *mishnayot* alone are described as individuals who erode the world (*Sota* 22a). Nevertheless, in certain circumstances, as in the discussion here, the Sages would turn to the *tanna* and rely on his breadth of knowledge to clarify the text or to find the author of an unattributed *baraita*.

Perek **IX**
Daf **59** Amud **b**

אַף הַתְּשִׁיעִי אֵינוֹ קָדוֹשׁ, אֶלָּא אִם כֵּן נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ; וְהַדִּין נוֹתֵן,

Even the ninth that was accidentall y designated as the tenth **is not sanctified** and may be eaten before it develops a blemish, **unless the name of the tenth is removed from** the tenth animal, i.e., if the owner erred also in that he called the tenth animal the ninth. **And logical** reasoning **leads** to this conclusion.

וּמָה אַחַד עָשָׂר, שֶׁהוּא עוֹשֶׂה קְדוּשָּׁה לְיַקֵּרֵב – אֵינוֹ קָדוֹשׁ אֶלָּא אִם כֵּן נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ, תְּשִׁיעִי שֶׁאֵין עוֹשֶׂה קְדוּשָּׁה לְיַקֵּרֵב – אֵינוֹ דִּין שֶׁאִם נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ – אִין, אִי לָא – לָא?

The Gemara explains the logical reasoning: The *halakha* is that if one designated the ninth animal as the tenth, and the tenth as the tenth, and the eleventh as the tenth, then the eleventh is not consecrated. This is because in any situation where the name of the tenth was not removed from the tenth animal, the eleventh, which was called the tenth, is not consecrated. **And if the eleventh** animal, **which becomes sanctified to be sacrificed** as a peace offering, as stated in the mishna on 60a, **is sanctified only if the name** of the **tenth is removed from** the tenth animal, then with regard to the **ninth** animal, **which does not become sanctified to be sacrificed** but is eaten once it develops a blemish, **is it not logical that if the name** of the **tenth is removed from** the actual tenth animal, then **yes,** the ninth animal has sanctity and may be eaten only once it develops a blemish, **but if not,** then it is **not** sanctified at all and may be eaten even without a blemish?

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הֵיא הַנּוֹתֶנֶת, אַחַד עָשָׂר שֶׁהוּא עוֹשֶׂה קְדוּשָּׁה לִיקָּרֵב, אִי נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ – אִין, אִי לָא – לָא; תְּשִׁיעִי שֶׁאֵינוֹ עוֹשֶׂה קְדוּשָּׁה לִיקָּרֵב – אַף עַל גַּב דְּלֹא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ.

The Gemara rejects this logical derivation: **That** claim itself **provides** support for the contrary opinion. With regard to **the eleventh** animal, **which becomes sanctified** with a stringent sanctity **to be sacrificed** as a peace offering, **if the name** of the **tenth is removed from** the actual tenth animal, then **yes,** the eleventh becomes sanctified, but **if** the designation of being the tenth is **not** removed from the tenth, then the eleventh does **not** become sanctified. But with regard to the **ninth** animal, **which does not become sanctified** with the stringent sanctity **to be sacrificed,** one can say that **even though the name of** the **tenth** animal **is not removed from** the tenth animal, nevertheless the ninth becomes sanctified.

אִי נַמִי: אַחַד עָשָׂר, דְּאִיבָּרַר לֵיהּ עֲשִׂירִי, אִי נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ – אִין, אִי לָא – לָא;

Alternatively, there is another distinction between the two cases. With regard to the **eleventh** animal, **which** is sanctified only after the **tenth** animal has been **selected,** as it has emerged from the pen, one can claim that **if the name** of the **tenth is removed from** the tenth animal, then **yes,** the eleventh becomes sanctified, but **if** the name of the tenth is **not** removed from the tenth animal, the eleventh does **not** become sanctified.

תְּשִׁיעִי, דְּאַכַּתִּי לָא אִיבָּרַר לֵיהּ עֲשִׂירִי – וְאַף עַל גַּב דְּלָא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ. תּוּ לָא מִידֵּי.

But with regard to the **ninth** animal, **which** becomes sanctified at a time **when** the **tenth** animal **has not yet been selected,** as the tenth animal has not yet left the pen, if the owner accidentally designated that ninth animal as the tenth it becomes sanctified, **and** in such a case this is the *halakha* **even though the name** of the **tenth** animal **is not removed from** the actual tenth animal. The Gemara adds that there is **nothing more** to add to that explanation, and the opinion of Rabbi Shimon ben Yehuda in the name of Rabbi Shimon is rejected.

אָמַר רָבָא: מְנָיָן הָרָאוּי פּוֹטֵר. מְנָא לֵיהּ לְרָבָא הָא? אִילֵימָא מֵהָא דִּתְנַן: קָפַץ אֶחָד מִן הַמְּנוּיִין לְתוֹכָן – כּוּלָּן פְּטוּרִין; מְנוּיִין גּוּפַיְיהוּ דְּאִיפְּטְרוּ – לָאו בְּמְנָיָן הָרָאוּי?

Rava says: A tally fit to reach ten **exempts** the animals that have been counted from being tithed. The Gemara asks: **From where** does **Rava** derive **this** *halakha*? **If we say** he derives it **from that which we learned** in the mishna, this is problematic. The Gemara cites the relevant statement of the mishna: If before one completed tithing his animals, **one of** those **counted jumped** back into the pen **among** the animals that were not yet counted, **all those** in the pen **are exempt** from being tithed, as each of them could be the animal that was already counted. The Gemara clarifies: With regard to this *halakha* concerning which the **counted** animals **themselves are exempt,** is it **not** because they were counted with **a tally fit** to reach ten?

וְדִלְמָא דְּעִשַּׂר עִילָּוַיְיהוּ!

The Gemara rejects this suggestion: **But perhaps** this is referring to a case **where** the tenth animal also came out of the pen, and the owner **tithed** it **on behalf** of the others that were counted. If so, they are not exempt simply because they were counted with a tally fit to reach ten but because they were actually tithed.

הַהִיא לָא מָצֵית אָמְרַתְּ, הָא תָּנֵי: מִן הַמְּעוּשָּׂרִין לְתוֹכָן!

The Gemara counters: **You cannot say** that the mishna is addressing a situation where one of the animals for which tithe had already been separated jumped back in, as the latter clause of the mishna **teaches:** If one **of** those animals that had been **tithed** jumped back into the pen **among** the animals that were not yet counted. This indicates that in the situation described in the first clause the animals had been counted but not yet tithed.

וְדִלְמָא: מַאי ״מְעוּשָּׂרִין״ – מַעֲשֵׂר דַּוְקָא. דַּיְקָא נַמִי דְּקָתָנֵי: יִרְעוּ!

The Gemara rejects this claim: **But perhaps, what** is the meaning of the term: Animals that had been **tithed?** This is referring **specifically** to the tenth animal, which is the actual **tithe.** And accordingly, the language of the mishna **is also precise, as it teaches:** All the animals **must graze** until they become unfit for sacrifice, and thereafter they may be eaten in their blemished state by their owner. Concerning animal tithe, this *halakha* applies specifically to the tenth animal when it reentered the pen, and not to the other nine. Therefore, the Gemara has not yet found a source for Rava's *halakha*.

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אֶלָּא אָמַר רָבָא: אָמַר קְרָא ״יַעֲבֹר״ – וְלֹא שֶׁכְּבָר עָבַר; מַאי שֶׁכְּבָר עָבַר? אִי דְּעִשֵּׂר עִילְּוַיְיהוּ – צְרִיכָא לְמֵימְרָא? אֶלָּא לָאו – דְּאִיפְּטְרוּ לְהוּ בְּמִנְיָן הָרָאוּי, שְׁמַע מִינָּהּ.

Rather, Rava says the verse states: "Whatever **passes** under the rod, the tenth shall be sacred to the Lord" (Leviticus 27:32). This indicates that only an animal that will pass under the rod must be tithed, **but not** an animal **that** has **already passed** under the rod. Rava elaborates: **What** it the meaning of: An animal **that** has **already passed? If** it means **that one has separated tithe for it, is it necessary** for a verse **to state** this? Of course an animal that has been tithed does not need to be tithed again. **Rather,** is it **not** referring to a case **where** the animals **have become exempt through a tally fit** to reach ten? **Conclude from this** that a tally fit to reach ten renders an animal exempt from being tithed.

תַּנְיָא כְּוָותֵיהּ דְּרָבָא: הָיוּ לוֹ עֲשָׂרָה טְלָאִים וְהִכְנִיסָן לַדִּיר, וּמָנָה חֲמִשָּׁה, וּמֵת אֶחָד מֵהֶם, אִם מִן הַמְּנוּיִים מֵת – מוֹנֶה וּמַשְׁלִים עֲלֵיהֶם, וְאִם מִשֶּׁאֵינָן מְנוּיִים מֵת – מְנוּיִים פְּטוּרִין, וְשֶׁאֵינָן מְנוּיִים מִצְטָרְפִין לְגוֹרָן אַחֵר.

It **is taught** in a *baraita* **in accordance with** the opinion **of Rava:** In a case where **one had ten lambs and he brought them into the pen and counted five, and** then **one of them died,**[H] **if** one **of those** animals **that had been counted died, he** continues to **count and completes** the tithe **for them. But if** one **of** the animals **that had not been counted died,** those animals that had **been counted are exempt, and** those animals **that** had **not been counted combine** with animals born later, to be tithed **in another** designated time of **gathering.**

וְאָמַר רָבָא: הָיוּ לוֹ אַרְבָּעָה עָשָׂר טְלָאִים, וְהִכְנִיסָן לַדִּיר, וְיָצְאוּ שִׁשָּׁה בְּפֶתַח זֶה וְאַרְבָּעָה בְּפֶתַח זֶה, וְאַרְבָּעָה נִשְׁתַּיְּירוּ שָׁם; אוֹתָם אַרְבָּעָה, אִם בְּפֶתַח הַשִּׁשָּׁה יָצְאוּ – נוֹטֵל אֶחָד מֵהֶם וְהַשִּׁשָּׁה מִצְטָרְפִין לְגוֹרָן אַחֵר,

§ **And Rava says:** In a case where **one had fourteen lambs**[H] **and brought them into the pen, and six** of the lambs **emerged** first, **through this opening** on one side of the pen, **and four** lambs emerged afterward **through that opening** on the other side of the pen, **and four** lambs **remained there, if those four** that remained came out **by the opening** through which **the six** lambs **emerged, he takes** the last **one of them** as animal tithe. **And the remainder,** i.e., the four that emerged through the other opening, **combine** with animals born later, to be tithed **in another** designated time of **gathering.**

וְאִם לָאו – שִׁשָּׁה פְּטוּרִין, וְאַרְבָּעָה אַרְבָּעָה מִצְטָרְפִין לְגוֹרָן אַחֵר.

But if not, i.e., if the last four remained in the pen or came out through the same opening through which the other four lambs emerged, then the **six** that emerged first **are exempt** from animal tithe, as they were part of a tally fit to reach ten; **and** the **four** that came out next, from the other opening, and the last **four, combine** with animals born later, to be tithed **in another** designated time of **gathering.**

יָצְאוּ אַרְבָּעָה בְּפֶתַח זֶה וְשִׁשָּׁה בְּפֶתַח זֶה, וְנִשְׁתַּיְּירוּ שָׁם אַרְבָּעָה; אִם אוֹתָם אַרְבָּעָה בְּפֶתַח הַשִּׁשָּׁה יָצְאוּ – נוֹטֵל מֵהֶם אֶחָד וְהַשִּׁשָּׁה פְּטוּרִים, וְאִם לָאו – אַרְבָּעָה וְשִׁשָּׁה פְּטוּרִים, וְאַרְבָּעָה מִצְטָרְפִין לְגוֹרָן אַחֵר.

Rava continues: In a case where **four** of the fourteen lambs **emerged** first, **through this opening** on one side of the pen, **and six** lambs came out afterward **through that** other **opening, and four** lambs **remained there, if those four** that remained come out **by the opening** through which **the six** lambs **emerged,** the owner **takes** the last **one of them** as animal tithe, **and the remainder,** i.e., the four that went out of the other opening, **are exempt,** as they were part of a tally fit to reach ten. **But if not,** i.e., if the last four emerge via the same opening as the first four, the **four** that came out first **and** the **six** that emerged through the other opening **are exempt,** as there were enough lambs left to complete the ten when all these left. **And** the **four** that went out last **combine** with animals born later, to be tithed **in another** designated time of **gathering.**

HALAKHA

One had ten lambs…and counted five and one of them died, etc. – הָיוּ לוֹ עֲשָׂרָה טְלָאִים...וּמָנָה חֲמִשָּׁה וּמֵת אֶחָד מֵהֶם וכו׳: If one gathered his lambs into a pen and began counting them, and one of the counted lambs died, he continues counting and sanctifies the tenth lamb, despite the fact that there are no longer nine other lambs left alive. This *halakha* is in accordance with the ruling of the *baraita*. If one of the lambs that had not yet been counted died, those that have already left the pen and been counted are exempt, as a tally fit to reach ten exempts. Those that remain in the pen must be tithed on the next designated occasion for tithing. This ruling is in accordance with the *baraita* and the statement of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:9–10).

One had fourteen lambs – הָיוּ לוֹ אַרְבָּעָה עָשָׂר טְלָאִים: In a case where one had fourteen lambs and he gathered them into a pen, and four left through one opening and were counted, while six others went out through a second opening, leaving four in the pen, if the remaining four emerge through the same opening as the six, he separates one of them as tithe. If they leave by the same opening as the four, the first four and the six are exempt from animal tithe, while the four that remained must be tithed with new animals at the next designated time, as they were never counted in a tally fit to reach ten. This *halakha* is in accordance with the opinion of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:10).

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יָצְאוּ אַרְבָּעָה בְּפֶתַח זֶה, וְאַרְבָּעָה בְּפֶתַח זֶה, וְנִשְׁתַּיְּירוּ שָׁם שִׁשָּׁה; אִם אוֹתָן שִׁשָּׁה יָצְאוּ בְּפֶתַח אֶחָד – נוֹטֵל מֵהֶם אֶחָד וְהַשְּׁאָר פְּטוּרִים, וְאִם לָאו – אַרְבָּעָה פְּטוּרִים, וְשִׁשָּׁה מִצְטָרְפִין לְגוֹרָן אַחֵר.

Rava continues: In a case where **four** of the fourteen lambs **emerged** first, **through this opening,**[H] **and four** lambs came out afterward **through that** other **opening, and six** lambs **remained there, if those six** that remained come out **through** any **one opening, he takes one of them** as animal tithe, **and the remainder,** i.e., the four that went out of the other opening, **are exempt,** as they were part of a tally fit to reach ten. **But if not,** i.e., if the six remain in the pen, the **four** sheep that emerged on this side and the four that came out on that side **are exempt. And** the **six** that remain **combine** with animals born later, to be tithed **in another** designated time of **gathering.**

מַאי קָא מַשְׁמַע לָן – דְּמִנְיָן הָרָאוּי פּוֹטֵר? וְהָאֲמַר רָבָא חֲדָא זִמְנָא! מַהוּ דְּתֵימָא: מִנְיָן הָרָאוּי – אָמְרִינַן; סָפֵק מִנְיָן הָרָאוּי, דַּחֲזִי לְהָכָא וְדַחֲזִי לְהָכָא – לָא אָמְרִינַן, קָא מַשְׁמַע לָן.

The Gemara asks: **What is** Rava **teaching us?** Is he teaching **that** any animal that comes out of the pen as part of **a tally fit** to reach ten is **exempt? But didn't Rava say** that already **once?** The Gemara answers: Rava's statement is necessary, **lest you say** that only if the animals emerge as part of **a tally** that is **definitely fit** to reach ten do **we say** they are exempt. But if they come out as part of **a tally** with regard to which it is **uncertain** whether it is **fit** to reach ten, such as in this case **where** the remaining animals **are fit to** come out **here and are fit to** come out **there,** and therefore the first animals might not be part of a counting that will reach ten, **we do not say** they are exempt. Therefore, Rava **teaches us** that even a tally that is uncertain to reach ten exempts the animals from tithe.

וְאָמַר רָבָא: הָיוּ לוֹ חֲמִשָּׁה עָשָׂר טְלָאִים, לֹא יֹאמַר: אֶבְרוֹר עֲשָׂרָה וְאַכְנִיסֵם לַדִּיר, וְאֶטּוֹל מֵהֶם אֶחָד וְהַשְּׁאָר פְּטוּרִים. אֶלָּא כּוֹנְסָן לַדִּיר, וּמוֹצִיא עֲשָׂרָה וְנוֹטֵל מֵהֶם אֶחָד, וְהַשְּׁאָר מִצְטָרְפִין לְגוֹרָן אַחֵר. תַּנְיָא נַמִי הָכִי: הָיוּ לוֹ חֲמִשָּׁה עָשָׂר טְלָאִים,

§ **And Rava says:** If one **had fifteen lambs, he may not say: I will separate ten**[H] **and bring them into the pen, and I will take one of them** as animal tithe, **and the rest** will be **exempt. Rather,** he must **bring** them all **into the pen, and remove ten** of them by causing them to emerge from the opening, **and take one of them,** i.e., the one that emerges tenth, as animal tithe. **And the remainder combine** with animals born later, to be tithed **in another** designated time of **gathering. This is also taught** in a *baraita*: If one **had fifteen lambs,**

HALAKHA

Four emerged though this opening – יָצְאוּ אַרְבָּעָה בְּפֶתַח זֶה: In a case where four animals went out of one opening and four went out of another opening, leaving six in the pen, if those last six emerge through one of the two openings he takes one of them as tithe, and all the animals are exempt from tithe. If the remaining six do not all leave from the same opening they must be tithed again at the next designated time, and the first eight that went out are exempt. This ruling is in accordance with the opinion of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:10).

If one had fifteen lambs he may not say, I will separate ten – הָיוּ לוֹ חֲמִשָּׁה עָשָׂר טְלָאִים לֹא יֹאמַר אֶבְרוֹר עֲשָׂרָה: If one gathered all his animals into a pen and began counting them, and he sanctified every tenth animal until there were less than ten remaining in the pen, those remaining are tithed with the new animals at the next designated time. Although he knows from the beginning that some animals will remain at the end, he is nevertheless required to gather them all into the pen. This *halakha* is in accordance with the *baraita* and the opinion of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 7:9).

Perek **IX**
Daf **60** Amud **a**

לֹא יֹאמַר: אֶבְרוֹר עֲשָׂרָה וְאֶטּוֹל מֵהֶן אֶחָד, וְהַשְּׁאָר פְּטוּרִים. אֶלָּא כּוֹנְסָן לַדִּיר, וּמוֹצִיא עֲשָׂרָה וְנוֹטֵל מֵהֶן אֶחָד, וְהַשְּׁאָר מִצְטָרְפִין לְגוֹרָן אַחֵר.

he may not say: I will separate ten and bring them into the pen, **and I will take one of them** as animal tithe, **and the rest** will be **exempt. Rather,** he must **bring** them all **into the pen and remove ten** of them by causing them to emerge from the opening, **and take one of them,** the tenth one, as animal tithe. **And the remainder combine** with animals born later, to be tithed **in another** designated time of **gathering.**

וְהָתַנְיָא: תִּשְׁעָה עָשָׂר טְלָאִים, לֹא יֹאמַר: אֶבְרוֹר עֲשָׂרָה וְאֶטּוֹל מֵהֶן אֶחָד, וְהַשְּׁאָר פְּטוּרִין. אֶלָּא כּוֹנְסָן לַדִּיר, וּמוֹצִיא עֲשָׂרָה וְנוֹטֵל מֵהֶן אֶחָד, וְהַשְּׁאָר פְּטוּרִין!

The Gemara asks: **But isn't it taught** in a *baraita* that if one has **nineteen lambs he may not say: I will separate ten** and bring them into the pen, **and I will take one of them** as animal tithe **and the rest** will be **exempt; rather,** he must **bring** them all **into the pen and remove ten** of them by causing them to emerge from the opening, **and take one of them,** the tenth one, **and the remainder are exempt?** According to this *baraita*, the remainder are not combined with animals born later.

תִּרְגְּמָהּ רַב הוּנָא בַּר סְחוֹרָה קַמֵּיהּ דְּרָבָא בְּרִיגְלָא: בְּדִיר שֶׁיֵּשׁ לוֹ שְׁנֵי פְתָחִים עָסְקִינַן, וְיָצְאוּ תִּשְׁעָה בְּפֶתַח זֶה וְתִשְׁעָה בְּפֶתַח זֶה, דְּהָאֵיךְ חַד חֲזִי לְהָכָא וּלְהָכָא.

Rav Huna bar Seḥora interpreted the *baraita* **before Rava at** the time of the **Festival** discourse:[B] **We are dealing with a pen that has two openings. And nine** of the lambs **emerged** through **this opening and nine** of them went out through **that opening, and this** last **one** remaining in the pen **is fit to** come out **here or to** come out **there.** Therefore, all the lambs emerged as part of a tally fit to reach ten.

BACKGROUND

Festival discourse – רִיגְלָא: Normally a Sage would teach only the students studying in his academy. On a Festival, people would gather from many places to hear the statements of the great Sages and the Exilarch. The Talmud refers elsewhere to the Shabbat of the Festival as a time for public teaching. This is a particular Shabbat during or before a Festival. By contrast, the *ge'onim* understand this term as referring to the anniversary of the death of a great person. On that day many Torah scholars would gather from the surrounding areas and set up a temporary academy near his grave (Rashi on *Yevamot* 122a).

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וְלִישְׁנֵי לֵיהּ: כְּגוֹן שֶׁמָּנָה תִּשְׁעָה, וְכִי מָטָא עֲשָׂרָה קָרֵי ״חַד״ מֵרֵישָׁא! קָסָבַר: עֲשִׁירִי מֵאֵלָיו קָדוֹשׁ.

The Gemara challenges: **But let him teach** instead that the *baraita* is referring to a case **where he counted nine, and when the tenth** lamb **arrived** to be counted **he called** it number **one** and began counting again **from the start.** In such a case he designated only the nineteenth lamb that emerged as number ten, and therefore all the other lambs are exempt. The Gemara explains that Rav Huna bar Seḥora **holds** that the **tenth** animal to come out of the pen **is sanctified of its own** accord, even if it was designated as number one.

וְלִישְׁנֵי לֵיהּ בְּגוֹרֶן, וּמְנָאָן זוּגוֹת זוּגוֹת! קָסָבַר: עֲשִׁירִי לְמִנְיָן בְּהֵמוֹת הוּא קָדוֹשׁ.

The Gemara challenges: **But let him teach** instead that the *baraita* is referring **to** a case of a designated time for **gathering** the animals, and that the pen has only one opening, **but he counted them pair by pair,** i.e., he called the first pair number one, the second pair number two, and so on. In this manner, the nineteenth lamb would be designated as number ten and thereby exempt the others. The Gemara explains that Rav Huna bar Seḥora **holds** that the **tenth according to the number of animals is sanctified,** regardless of how he counts them. Accordingly, one of the fifth pair would be the tithed animal, and the remaining nine would not be considered part of a tally fit to reach ten.

אָמַר רַב נַחְמָן בַּר יִצְחָק: זַכַּאי אִיפַּיְיהּ דְּרַב הוּנָא בַּר סְחוֹרָה, דְּשַׁנֵּי לֵיהּ שְׁמַעֲתָא בְּרִיגְלָא כְּשְׁמַעֲתֵיהּ.

Rav Naḥman bar Yitzḥak said with regard to this incident: **The mother of Rav Huna bar Seḥora merited** to give birth to such a son, **who explained the *halakha*** before Rava **at** the time of **the Festival** discourse **in accordance with** Rava's **own *halakha*.**

מַתְנִי׳ יָצְאוּ שְׁנַיִם כְּאֶחָת – מוֹנֶה אוֹתָם שְׁנַיִם שְׁנַיִם; מָנָה אֶחָד – תְּשִׁיעִי וַעֲשִׂירִי מְקוּלְקָלִין.

MISHNA If **two** animals **emerged as one, one counts them as twos,**[N] i.e., as though they came out one after the other. If he mistakenly **counted** two of the animals at the beginning or in the middle of the ten as **one,** and then continued his count, the **ninth and** the **tenth are flawed,**[N] as he called the tenth: Ninth, and he called the eleventh: Tenth.

קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וְלָעֲשִׂירִי ״תְּשִׁיעִי״, וְלָאֶחָד עָשָׂר ״עֲשִׂירִי״ – שְׁלָשְׁתָּן מְקוּדָּשִׁין; הַתְּשִׁיעִי – נֶאֱכָל בְּמוּמוֹ, וְהָעֲשִׂירִי – מַעֲשֵׂר, וְאֶחָד עָשָׂר קָרֵב שְׁלָמִים, וְעוֹשֶׂה תְּמוּרָה – דִּבְרֵי רַבִּי מֵאִיר.

If he mistakenly **called** the **ninth: Tenth, and** the **tenth: Ninth, and the eleventh: Tenth,** the **three of them are sacred,** although each has a different halakhic status. **The ninth is eaten in its blemished** state; **and the tenth is** animal **tithe,** which is sacrificed in the Temple and eaten by its owner; **and** the **eleventh is sacrificed as a peace offering,** from which the breast and the thigh are given to the priest. **And** the eleventh **renders** a non-sacred animal that is exchanged for the peace offering consecrated as **a substitute**[B] and he sacrifices it as a peace offering; this is **the statement of Rabbi Meir.**

BACKGROUND

Substitute – תְּמוּרָה: The possibility of substitution is mentioned in the Torah (Leviticus 27:10), and a tractate of the Mishna, *Temura*, focuses on these *halakhot*. The Torah prohibits substituting an animal, whether whole or blemished, for an offering. One who does so violates a prohibition and receives lashes as a punishment. Despite the prohibition, however, if an act of substitution is performed the second animal acquires a measure of sanctity, while the initial animal also remains sacred.

All animals can be designated as substitutes, whether they are whole or blemished, and the animal designated as a substitute can never be put to work, nor may it be redeemed. The fate of the substitute varies with the particular type of offering. In some instances, e.g., a substitute for a sin offering, it is left to die. In other cases, such as a guilt offering, it is left to graze until it becomes blemished. Lastly, some substitutes, e.g., that of a peace offering, are consecrated for the altar in addition to the original animal.

NOTES

If two animals emerged as one, one counts them as twos – יָצְאוּ שְׁנַיִם כְּאֶחָת מוֹנֶה אוֹתָם שְׁנַיִם שְׁנַיִם: The explanation in the text follows the commentary of Rashi manuscript. This interpretation best suits the version of the text accepted by *Tosafot*: He counts them as two. In other words, whether the pair came out at the beginning or in the middle of the count, e.g., if the sixth and seventh animals came out together, he must count them as though they came out one by one. If he counted them as one and then continued counting the remaining animals individually, the ninth and tenth will be problematic, as the animal he counted as ninth is actually the tenth, while the animal he counted as tenth is the eleventh. Some maintain that the mishna is referring to a case where the first two animals came out together, and it rules that one counts them two by two, i.e., the owner must continue counting the animals in pairs, so that the tenth pair is the tithe (Rambam).

The ninth and the tenth are flawed – תְּשִׁיעִי וַעֲשִׂירִי מְקוּלְקָלִין: The text found in the printed version of the Mishna, as well as that of many of the early commentaries (Rambam's Commentary on the Mishna; *Shita Mekubbetzet*, citing Rosh), adds here: If the ninth and tenth emerged as one, the ninth and the tenth are flawed. In other words, they may not be sacrificed, but may be eaten once they have developed a blemish. The reason they have this status is that it is impossible for two events to coincide precisely, and therefore it is certain that one of the animals was actually the ninth, and is non-sacred, while the other is the tithe, but there is no way of knowing which is which (*Tosefot Yom Tov*). This is why the mishna teaches: The ninth and the tenth are flawed, rather than: Both of them are flawed; this indicates that one of them is really the ninth, and the other is the tenth (*Shoshannim LeDavid*).

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אָמַר רַבִּי יְהוּדָה: וְכִי יֵשׁ תְּמוּרָה עוֹשָׂה תְּמוּרָה? אָמְרוּ מִשּׁוּם רַבִּי מֵאִיר: אִילּוּ הָיָה תְּמוּרָה – לֹא הָיָה קָרֵב. קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וְלָעֲשִׂירִי ״עֲשִׂירִי״, וְלָאַחַד עָשָׂר ״עֲשִׂירִי״ – אֵין אַחַד עָשָׂר מְקוּדָּשׁ. זֶה הַכְּלָל: כָּל שֶׁלֹּא נֶעֱקַר שֵׁם עֲשִׂירִי מִמֶּנּוּ – אֵין אַחַד עָשָׂר מְקוּדָּשׁ.

Rabbi Yehuda said: The eleventh animal itself, which he called tenth, is a substitute for animal tithe, **and does a substitute render** another animal **a substitute?** Everyone agrees that a substitute is created only in exchange for an originally consecrated animal. The Sages **said in the name of Rabbi Meir:** The eleventh animal is not considered a substitute for the animal tithe, since **if it were a substitute it would not be sacrificed,** as the substitute for an animal tithe is not sacrificed. If **one called the ninth** animal: **Tenth, and the tenth: Tenth, and the eleventh: Tenth, the eleventh is not consecrated. This is the principle:** In **any** situation **where the name** of the **tenth was not removed from** the tenth animal, the **eleventh** that was called the tenth **is not consecrated.**

גמ׳ אָמַר רַבִּי יוֹחָנָן: מְנָאָן זוּגוֹת זוּגוֹת, קִינְטָרָן קִינְטָרָן – עֲשִׂירִי לִמְנָיָנוֹ הוּא קָדוֹשׁ.

GEMARA **Rabbi Yoḥanan says:** If one **counted** the animals **pair by pair,**[N] i.e., he called the first pair: One, and the second pair: Two, and so on, or if one counted them **hundred** [*kinteran*][L] by **hundred,** the **tenth** according **to his number is sanctified.**

״לִמְנָיָנוֹ״ מַאי? רַב מָארִי אָמַר: לִמְנָיָן שֶׁלּוֹ הוּא קָדוֹשׁ. רַב כָּהֲנָא אָמַר: לִמְנָיָן בְּהֵמוֹת הוּא קָדוֹשׁ.

The Gemara asks: When Rabbi Yoḥanan says that the tenth is sanctified according **to his number, what** does he mean? **Rav Mari says: It is sanctified according to his counting,** i.e., all the animals in whichever pair or group he calls: Ten, are sanctified, e.g., the tenth pair, which consists of the nineteenth and twentieth animals. **Rav Kahana says: It is sanctified according to the number of animals,** regardless of how he designates them.

תְּנַן: יָצְאוּ שְׁנַיִם כְּאַחַת – מוֹנֶה אוֹתָן שְׁנַיִם שְׁנַיִם, מְנָאָן אֶחָד – תְּשִׁיעִי וַעֲשִׂירִי מְקוּלְקָלִין.

The Gemara cites support for Rav Mari's opinion. **We learned** in the mishna: If **two** animals **emerged as one, one counts them as twos.** If he mistakenly **counted** a pair of animals in the middle as **one** and continued his count, the **ninth and** the **tenth are flawed,** as he called the tenth: Ninth, and the eleventh: Tenth.

בְּשִׁלָּמָא לְמַאן דְּאָמַר: לִמְנָיָן שֶׁלּוֹ הוּא קָדוֹשׁ – מִשּׁוּם הָכִי הָוֵי תְּשִׁיעִי וַעֲשִׂירִי מְקוּלְקָלִין, וְלָעֲשִׂירִי קָא קָרֵי לֵיהּ ״תְּשִׁיעִי״, וְלָאַחַד עָשָׂר ״עֲשִׂירִי״; אֶלָּא לְמַאן דְּאָמַר: לִמְנָיָן בְּהֵמוֹת הוּא קָדוֹשׁ, לַתְּשִׁיעִי – ״תְּשִׁיעִי״ קָא קָרֵי לֵיהּ, וְלָעֲשִׂירִי – ״עֲשִׂירִי״ קָא קָרֵי לֵיהּ!

Granted, according to the one who says: It is sanctified according to his counting, i.e., Rav Mari, it is **due to that** reason that **the ninth and the tenth are flawed,** because the number by which one designates them is significant, **and he called the tenth** animal the **ninth, and the eleventh** he designated as **tenth. But according to the one who says** that the animal **is sanctified according to the number of animals** regardless of how the owner designates each one, i.e., Rav Kahana, why are they flawed? It should be considered as though **he called the ninth** animal the **ninth, and the tenth** animal **he called: Tenth.**

אָמַר לָךְ רַבִּי יוֹחָנָן: כִּי אָמִינָא אֲנָא – הֵיכִי דְּאִיכַּוֵּין לְאַפּוֹקֵי זוּגוֹת זוּגוֹת, הֵיכָא דְּנָפַק מִמֵּילָא – לָא.

The Gemara answers that according to Rav Kahana, **Rabbi Yoḥanan** could have **said to you: When I said** the designation goes according to the animal I was referring only to a case **where he intended to take out** the animals **pair by pair,** and he did not err. In such a case his designation is nullified and the animals are sanctified in accordance with the order they left the pen. But with regard to a case **where** the animal **emerged by itself** and the owner miscounted I did **not** say the designation goes according to the number of the animal, as the Torah explicitly includes a case where the sanctification follows a mistaken designation (see 60b).

תָּא שְׁמַע: מְנָאָן לְמַפְרֵעַ – עֲשִׂירִי שֶׁבִּמְנָיָן הוּא קָדוֹשׁ; בְּשִׁלָּמָא לְמַאן דְּאָמַר: לִמְנָיָן בְּהֵמוֹת הוּא קָדוֹשׁ – שַׁפִּיר, אֶלָּא לְמַאן דְּאָמַר: לִמְנָיָן שֶׁלּוֹ הוּא קָדוֹשׁ, עֲשִׂירִי – ״חַד״ קָרֵי לֵיהּ!

The Gemara suggests: **Come** and **hear** another proof from a *baraita*: If one **counted them backward,** i.e., ten, nine, eight, and so on, the **tenth** animal **in the numbering,** which he designated as number one, **is sanctified. Granted, according to the one who says** that the tithe **is sanctified according to the** number of **animals** regardless of how he designates each animal, i.e., Rav Kahana, this works out **well,** as the tenth animal is sanctified. **But according to the one who says it is sanctified** according **to his counting,** i.e., Rav Mari, why is the tenth animal sanctified? After all, **he called** the **tenth** animal number **one.**

אָמַר רָבָא: הוֹאִיל וְאִיתֵּיהּ בְּמִנְיָנָא פָּרְסָאָה, דְּקָרוּ לָעֲשָׂרָה ״חַד״.

Rava said: The tenth animal is sanctified according to Rav Mari **because it** has been counted as number ten **in Persian counting, as they call the tenth** one in their language by the term **one,** i.e., they count only in units of ten, and call these units: One. Therefore, in this case there is no contradiction between the designation and the number of the animal.

NOTES

If one counted the animals pair by pair – מְנָאָן זוּגוֹת זוּגוֹת: The later commentaries note that in this case the animals were counted by the owner in twos, but they left the pen one after the other. This differs from the case described in the mishna, where two came out together (*Ḥok Natan*; *Ḥazon Ish*).

LANGUAGE

Hundred [*kinteran*] – קִינְטָרָן: From the Greek κεντηνάριος, *kentēnarios*, this term is parallel to the Latin centinarius, which refers to an item whose weight or count is one hundred.

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״קָרָא לַתְּשִׁיעִי ׳עֲשִׂירִי׳ וְלָעֲשִׂירִי ׳תְּשִׁיעִי׳, וְלָאַחַד עָשָׂר ׳עֲשִׂירִי״. תָּנוּ רַבָּנַן: מִנַּיִן שֶׁאִם קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וְלָעֲשִׂירִי ״תְּשִׁיעִי״, וְלָאַחַד עָשָׂר ״עֲשִׂירִי״, שֶׁשְּׁלָשְׁתָּן מְקוּדָּשִׁין?

§ The mishna teaches: If he mistakenly **called** the **ninth: Tenth, and** the **tenth: Ninth, and the eleventh: Tenth,** all three are sacred, although each has a different halakhic status. The Gemara cites a relevant *baraita*: **The Sages taught: From where** is it derived **that if** one mistakenly **called the ninth** animal: **Tenth, and the tenth** animal: **Ninth, and the eleventh** animal: **Tenth, that** all **three of them are sanctified?**

תַּלְמוּד לוֹמַר: ״וְכָל מַעְשַׂר בָּקָר וָצֹאן כֹּל אֲשֶׁר יַעֲבֹר תַּחַת הַשָּׁבֶט הָעֲשִׂירִי יִהְיֶה קֹדֶשׁ״. יָכוֹל שֶׁאֲנִי מְרַבֶּה אַף שְׁמִינִי וּשְׁנֵים עָשָׂר?

The verse states: "And all the tithe of the herd or the flock,[N] **whatever passes under the rod, the tenth shall be sacred to the Lord"** (Leviticus 27:32). This indicates that the tenth animal that passes under the rod is imbued with sanctity, in addition to any animal that the owner designates as the tenth. One **might** have thought **that I include even** the **eighth** animal **or** the **twelfth** animal, if they were mistakenly designated as the tenth.

אָמַרְתָּ, הוֹאִיל וְהוּא קָדוֹשׁ וְטָעוּתוֹ מִתְקַדֶּשֶׁת, מַה הוּא אֵינוֹ מְקוּדָּשׁ אֶלָּא בְּסָמוּךְ – אַף טָעוּתוֹ אֵינָהּ מִתְקַדֶּשֶׁת אֶלָּא בְּסָמוּךְ.

You said in response that **since** the tenth animal **is sanctified and** the animal that he designated by **mistake** as the tenth **is sanctified,** their statuses should be compared: **Just as** the tenth animal **is sanctified only with** an animal that was **close** to the number ten, i.e., it itself was the tenth, **so too,** an animal that was designated by **mistake is sanctified only if it is close** to the number ten, i.e., if it is the ninth or eleventh, but not if it is the eighth or the twelfth.

וְהָתַנְיָא: מַה הוּא מְיוּחָד – אַף טָעוּתוֹ מְיוּחֶדֶת!

The mishna teaches that if one mistakenly designated the ninth and the eleventh animals as the tenth they are both sanctified. The Gemara raises a difficulty: **But isn't it taught** in a *baraita* that **just as** the tenth animal **itself is unique,** i.e., it is only one, **so too,** an animal that was designated by **mistake is unique,** i.e., only one additional animal receives the sanctity, but not both the ninth and the eleventh?

תָּאנֵי תַּנָּא קַמֵּיהּ דְּרַבִּי יוֹחָנָן: הָא מַנִּי – רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן הִיא. דְּתַנְיָא, רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן אוֹמֵר: לְעוֹלָם אֵין אַחַד עָשָׂר קָדוֹשׁ – עַד שֶׁיִּשְׁתּוֹק בַּתְּשִׁיעִי, וְיִקְרָא לָעֲשִׂירִי ״תְּשִׁיעִי״, וְלָאַחַד עָשָׂר ״עֲשִׂירִי״.

The Gemara answers that **a *tanna* taught before Rabbi Yoḥanan:** In accordance with **whose** opinion **is this** *baraita*? **It is** in accordance with the opinion of **Rabbi Elazar, son of Rabbi Shimon, as it is taught** in a *baraita* that **Rabbi Elazar, son of Rabbi Shimon, says: The eleventh** animal **is never sanctified unless** the owner **is silent** when **the ninth** animal leaves the pen, i.e., he does not designate it as the tenth, **and he** subsequently **calls the tenth** animal the **ninth and the eleventh** animal the **tenth.** But if he had already designated the ninth animal as the tenth, the eleventh cannot become sanctified.

סָבַר לָהּ כְּרַבִּי יְהוּדָה דְּאָמַר: טָעוּת מַעֲשֶׂר תְּמוּרָה הָוֵי; וְסָבַר לָהּ כַּאֲבוּהּ, דְּאָמַר: אֵין מֵימֵר חוֹזֵר וּמֵימֵר.

The Gemara further explains that Rabbi Elazar, son of Rabbi Shimon, **holds in accordance with** the opinion of **Rabbi Yehuda, who says:** When the owner makes **a mistake** in designating animal **tithe,** e.g., if one designates the ninth animal as the tenth, the designated animal has the status of **a substitute** animal. **And** Rabbi Elazar also **holds in accordance with** the opinion of **his father,** Rabbi Shimon, **who says: One cannot effect substitution** on one animal by substituting it for a specific offering, **and again effect substitution,** on another animal, by substituting it for the same offering, and if one attempts to do so the second animal does not become consecrated. Therefore, if one mistakenly called the ninth animal the tenth, that ninth animal has sanctity; but if he also calls the eleventh animal the tenth, this designation has no effect.

NOTES

And all the tithe of the herd or the flock – וְכָל מַעְשַׂר בָּקָר וָצֹאן: The commentaries explain that the inference is from the phrase "all the tithe," which serves to include both the tenth animal and those cases where one called another animal the tenth (Rashi; Rabbeinu Gershom Meor HaGola). In *Torat Kohanim* this *halakha* is derived from the end of the verse: "The tenth shall be sacred," i.e., any tenth, whether it is the tenth animal to pass under the rod or the animal that is designated as the tenth (*Korban Aharon*).

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NOTES

The tenth and a non-sacred animal are intermingled with each other – עֲשִׂירִי וְחוּלִּין מְעוֹרָבִין זֶה בָּזֶה: With regard to each of the animals it is uncertain whether it is non-sacred or tithe. Therefore, it is prohibited to slaughter either of them until they have developed a blemish. One may also not sell or redeem either of them, put them to work, or shear them. In this circumstance one is not flogged for transgressing any of these prohibitions, as it is a case of uncertainty.

HALAKHA

The tenth and a non-sacred animal are intermingled with each other – עֲשִׂירִי וְחוּלִּין מְעוֹרָבִין זֶה בָּזֶה: If the ninth and tenth animals leave the pen at the same time, whether the owner designated them both as tenth or whether he designated them both as ninth, they are both sanctified. They may not be sacrificed, and may be eaten only once they develop a blemish. This *halakha* is in accordance with the opinion of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:4, and see Mahari Kurkus and *Leḥem Mishne* there).

If two animals emerged as the tenth and he called them both the tenth – יָצְאוּ שְׁנַיִם בָּעֲשִׂירִי וְקָרָאן עֲשִׂירִי: If the tenth and eleventh animals emerged from the pen at the same time and the owner designated them both as the tenth, they are considered to be tithe and a peace offering that are intermingled with each other. Therefore, the same *halakha* applies as in the case where a tithed animal became intermingled with a peace offering; they may be eaten only when they develop a blemish (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:4).

If he called them both the eleventh – קָרָאן אַחַד עָשָׂר: If the tenth and eleventh animals emerged from the pen at the same time and the owner designated them both as the eleventh, they are considered to be a tithed animal and a non-sacred animal that are intermingled with each other, and may be eaten only once they have developed a blemish. This ruling is in accordance with the opinion of Rava (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:4).

אָמַר רָבָא: יָצְאוּ שְׁנַיִם בַּתְּשִׁיעִי, קָרָאן ״תְּשִׁיעִי״ – עֲשִׂירִי וְחוּלִּין מְעוֹרָבִין זֶה בָּזֶה; עֲשִׂירִי – מֵאֵלָיו קָדוֹשׁ, לַתְּשִׁיעִי – ״תְּשִׁיעִי״ קָא קָרֵי לֵיהּ.

§ **Rava says:** If **two** animals **emerged** from the pen together **as the ninth,** and **he called them** both the **ninth,** then the **tenth,** i.e., the tithe, **and a non-sacred** animal **are** considered **intermingled with each other.**[NH] Rava elaborates: The **tenth is sanctified of its own** accord, despite the fact that he called it the ninth. And the animal that came out **ninth** is non-sacred, as it came out ninth and **he called it the ninth.** Since there is no way to determine which animal is which, neither of them can be brought as an offering, and they must both be left to graze until they develop a blemish.

קָרָאן ״עֲשִׂירִי״ – עֲשִׂירִי וּתְשִׁיעִי מְעוֹרָבִין זֶה בָּזֶה; מַאי טַעְמָא – ״עֲשִׂירִי״ קָא קָרֵי לְהוּ לְתַרְוַיְיהוּ.

If two animals emerged from the pen together as the ninth, and **he called them** both the **tenth,** then the **tenth,** i.e., the tithe, **and** the **ninth** animal, which he designated as the tenth, **are intermingled with each other. What is the reason? He called both of them** the **tenth.** The tenth has the sanctity of the tithe while the ninth was designated as the tenth, and therefore may not be eaten until it develops a blemish. Since there is no way to determine which animal is which, neither can be sacrificed, but they must both be left to graze until they develop a blemish.

יָצְאוּ שְׁנַיִם בָּעֲשִׂירִי וְקָרָאן ״עֲשִׂירִי״ – עֲשִׂירִי וְאַחַד עָשָׂר מְעוֹרָבִין זֶה בָּזֶה, קָרָאן ״אַחַד עָשָׂר״ – עֲשִׂירִי וְחוּלִּין מְעוֹרָבִין זֶה בָּזֶה.

If **two** animals **emerged** from the pen together **as the tenth, and he called them** both the **tenth,**[H] then the **tenth, and** the **eleventh** animal, which he designated as the tenth, **are intermingled with each other.** If **he called them** both the **eleventh,**[H] **the tenth and a non-sacred** animal **are intermingled with each other.**

הָא תּוּ לָמָּה לִי? הֵיינוּ הָךְ! הָא קָא מַשְׁמַע לָן: דְּכָל בַּת אַחַת תַּרְוַיְיהוּ קָא קָדְשִׁי, וְאַף עַל גַּב דְּלֹא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ.

The Gemara asks: **Why do I** need **this additional** case? **This** reasoning for the *halakha* in the case where the animals emerged together as the tenth is **identical** to **that** of the first case, where the animals emerged together as the ninth. The Gemara answers: **This** latter clause **teaches us that** in **every** case where two animals emerge **as one they are both sanctified, and** this is the *halakha* **even though the name** of the **tenth was not removed from** the tenth animal. This situation is not included in the principle of the mishna: In any situation where the name of the tenth was not removed from the tenth animal, the eleventh that was called tenth is not consecrated.

יָתֵיב רַב בְּהָנָא וְקָאָמַר לֵיהּ לְהָא שְׁמַעֲתָא. אֲמַר לֵיהּ רַב אַשִׁי לְרַב כָּהֲנָא: וַהֲלֹא לֹא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ, וּתְנַן: זֶה הַכְּלָל, כָּל זְמַן שֶׁלֹּא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ – אֵין אַחַד עָשָׂר מְקוּדָּשׁ! הָנֵי מִילֵּי – בָּזֶה אַחַר זֶה, אֲבָל בְּבַת אַחַת – תַּרְוַיְיהוּ קָא קָדְשִׁי.

The Gemara relates that **Rav Kahana sat and recited this *halakha*. Rav Ashi said to Rav Kahana: But the name** of the **tenth has not been removed from it. And didn't we learn** in the mishna that **this is the principle:** In **any** situation **where the name** of the **tenth was not removed from** the tenth animal, the **eleventh** that was called tenth **is not consecrated?** Rav Kahana replied to Rav Ashi: **This statement,** that the designation of tenth must be removed, applies only when the animals leave the pen **one after the other. But** if two animals emerge from the pen **at the same time,** and he simultaneously designated the tenth and eleventh as tithe, **both of them are sanctified.**

זֶה אַחַר זֶה – בְּהֶדְיָא קָתָנֵי לָהּ: קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״, וְלָעֲשִׂירִי ״עֲשִׂירִי״, וְלָאַחַד עָשָׂר ״עֲשִׂירִי״ – אֵין אַחַד עָשָׂר מְקוּדָּשׁ; ״זֶה הַכְּלָל״ לְאֵיתוּיֵי מַאי? לָאו לְאֵיתוּיֵי בְּבַת אַחַת?

The Gemara raises a difficulty: How can the mishna be explained as referring only to a case where the animals left the pen **one after the other?** After all, the mishna **teaches explicitly:** If **one called the ninth** animal: **Tenth, and the tenth: Tenth, and the eleventh: Tenth, the eleventh is not consecrated.** This is the principle: In any situation where the name of the tenth was not removed from the tenth animal, the eleventh that was called tenth is not consecrated. **What** does the phrase: **This is the principle,** serve **to include?** Does it not serve **to include** a case where the tenth and eleventh animals leave the pen **at the same time?** And if so, it is teaching that in such a case the eleventh animal is not sanctified.

לָא, לְאֵיתוּיֵי יָצָא עֲשִׂירִי וְלֹא דִּבֵּר, דְּהָא לֹא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ.

Rav Kahana would answer: **No;** it serves not to include that case, but **to include** a situation where **the tenth** animal **emerged** from the pen **and** the owner **did not speak** at all, and when the eleventh animal came out he designated it as the tenth. Therefore, the eleventh animal is not sanctified, **as he did not remove the name** of the **tenth from** the tenth animal. But if the tenth and eleventh animals came out at the same time, and he designated them both as the tenth, they are both sanctified.

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דְּאִי לָא תֵּימָא הָכִי, הָא דְּתַנְיָא: יָצְאוּ שְׁנַיִם בָּעֲשִׂירִי, וְלֹא קָדַם אֶחָד מֵהֶן אֶת חֲבֵירוֹ, וּקְרָאָן ״עֲשִׂירִי״ – עֲשִׂירִי וְאַחַד עָשָׂר מְעוֹרָבִין זֶה בָּזֶה; וְהָלֹא לֹא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ! אֶלָּא לָאו מִשּׁוּם דְּאָמְרִינַן: כָּל בְּבַת אַחַת – תַּרְוַיְיהוּ קָא קָדְשִׁי.

The Gemara adds that this must be the case, **because if you do not say this** explanation of the mishna there is a problem with **that which is taught** in a *baraita*: If **two** animals **emerged** from the pen together **as the tenth, and one** did **not** come out **before the other, and he called them** both the **tenth,** the **tenth and eleventh** animals **are intermingled with each other.** One is sacred with the sanctity of the animal tithe while the other is a peace offering, but there is no way to determine which animal is which. The Gemara explains the problem here: How can this *baraita* be reconciled with the mishna? **He did not remove the name** of the **tenth from** the tenth animal. **Rather, is it not due to** the fact **that we say:** In **any** case where two animals come out of the pen **at the same time both of them are sanctified?**

אִי מִשּׁוּם הָא – לָא אִירְיָא; הָכָא בְּמַאי עָסְקִינַן – דְּקָדְמִים חַד מִינַּיְיהוּ וְאַפֵּיק לְרֵישֵׁיהּ, וְקָרְייֵהּ ״אַחַד עָשָׂר״, וַהֲדַר אִיעֲרוֹב וּנְפוֹק בַּהֲדֵדֵי, וְקָרִינְהוּ ״עֲשִׂירִי״, דְּהָא נֶעֱקַר שֵׁם עֲשִׂירִי הֵימֶנּוּ.

Rav Ashi would rebut this claim: **If it is due to that** reason **there is no** conclusive **argument. Here we are dealing with** a case **where one of** the two animals came out **before** the other **and brought its head out**[HN] from the pen, **and** the owner **called** that animal the **eleventh, and afterward it became intermingled** with the other animals, **and** the last two animals **came out together, and he called them** both the **tenth** animal. In such a case both animals are sanctified, **as** the **name** of the **tenth was removed from** the tenth animal when he mistakenly called it the eleventh animal.

וְהָא ״לֹא קָדַם״ קָתָנֵי! מַאי ״לֹא קָדַם״ – דַּהֲדַר אִיעֲרוֹב.

The Gemara raises a difficulty with regard to this explanation: How can one interpret the *baraita* as referring to a case where one animal put its head out before the other? **But isn't it taught** explicitly in the *baraita*: And **one** did **not** come out **before** the other? The Gemara answers: **What** does the *baraita* mean when it states: And **one** did **not** come out **before** the other? It means **that it** did not come out completely, but **returned and became intermingled** with the other animals.

וּכְמַאן – דְּלָא כְּרַבִּי, דְּאִי רַבִּי – הָאָמַר: אֲחַד עָשָׂר לָא הָוֵי עֲקִירָה!

The Gemara asks: **And in accordance with whose** opinion is this *baraita* taught? It is **not** taught **in accordance with** the opinion of **Rabbi** Yehuda HaNasi. **As, if** it reflects the opinion of **Rabbi** Yehuda HaNasi there is a difficulty. **Doesn't** Rabbi Yehuda HaNasi **say:** If one called the tenth animal the **eleventh, it is not** considered **a removal** of the name of the tenth from the tenth animal?

אֲפִילּוּ תֵּימָא רַבִּי, כִּי אָמַר רַבִּי – הֵיכָא דְּאִית לֵיהּ בְּהֵמוֹת טוּבָא, דְּאָמְרִינַן: חַד עִישּׂוּרָא קָאָמַר, הָכָא – דְּלֵית לֵיהּ בְּהֵמוֹת טְפֵי.

The Gemara answers: **You** may **even say** that the *baraita* is in accordance with the opinion of **Rabbi** Yehuda HaNasi, as **when Rabbi** Yehuda HaNasi **said** his statement he was referring only to a case **where** the owner **has many animals** to tithe. The reason is **that we say** that when he said: *Aḥad asar*, eleventh, his intention was to **say:** ***Ḥad issura,*** one group of ten, i.e., that this tenth animal completes one set of ten animals, not that it is the eleventh. **Here** it is referring to a situation **where he does not have many animals** to tithe, and therefore he could not have been speaking of more than one set of ten, in which case Rabbi Yehuda HaNasi agrees that calling it the eleventh removes its status as the tenth.

HALAKHA

Where one of them came out before the other and brought its head out – דְּקָדְמִים חַד מִינַּיְיהוּ וְאַפֵּיק לְרֵישֵׁיהּ: If one was counting his lambs and one lamb extended its head and the majority of its body from the pen and then returned to the pen, it is considered to have been counted in every respect. This *halakha* is in accordance with the *baraita*, as explained in the Gemara (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:12).

NOTES

And brought its head out – וְאַפֵּיק לְרֵישֵׁיהּ: The later commentaries note that the Gemara does not mean the animal extended only its head from the pen, but rather its head and the majority of its body (*Reshit Bikkurim*; see Rambam). Others understand the Gemara literally, explaining that although the animal receives the sanctity of the tithe only once its head and the majority of its body emerge, in terms of removing the designation of the tenth it is sufficient for it to extend its head and be designated as the eleventh (*Tal Torah*). Yet others write that the fulfillment of the mitzva in the optimal manner occurs when the animal extends its head and the majority of its body from the pen. Nevertheless, counting the head alone is no worse than counting the animals when they are lying down, which the Gemara on 58b defines as sufficient after the fact (*Ḥazon Ish*).

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מַאי רַבִּי? דְּתַנְיָא: קָרָא לָעֲשִׂירִי ״אַחַד עָשָׂר״, וְלָאַחַד עָשָׂר ״עֲשִׂירִי״ – אֵין אַחַד עָשָׂר קָדוֹשׁ, דִּבְרֵי רַבִּי. רַבִּי יוֹסֵי בְּרַבִּי יְהוּדָה אוֹמֵר: אַחַד עָשָׂר קָדוֹשׁ. כְּלָל אָמַר רַבִּי: כָּל זְמַן שֶׁלֹּא נֶעֱקַר שֵׁם ״עֲשִׂירִי״ הֵימֶנּוּ – אֵין אַחַד עָשָׂר קָדוֹשׁ. אֲמַר רָבָא: הָכָא בְּמַאי עָסְקִינַן – כְּגוֹן דְּאִית לֵיהּ בְּהֵמוֹת טוּבָא, דְּאָמְרִינַן: חַד עִישׂוּרָא קָאָמַר.

The Gemara asks: To **what** statement of **Rabbi** Yehuda HaNasi is the Gemara referring? **As it is taught** in a *baraita*: If one **called the tenth** animal the **eleventh and the eleventh** animal the **tenth,** the **eleventh** animal is **not sanctified;** this is **the statement of Rabbi** Yehuda HaNasi. **Rabbi Yosei, son of Rabbi Yehuda, says:** The **eleventh** animal **is sanctified. Rabbi** Yehuda HaNasi **said a principle: As long as the name** of the **tenth has not been removed from** the tenth animal, the **eleventh** animal **is not sanctified.** To clarify why the eleventh animal is not sanctified according to Rabbi Yehuda HaNasi even though the name of the tenth was removed from the tenth animal when it was called the eleventh, **Rava said: Here we are dealing with** a case **where he has many animals,** and the reason is **that we say** that when he said: *Aḥad asar*, his intention was to **say: *Ḥad issura*.**

יָצְאוּ שְׁנַיִם בָּעֲשִׂירִי, תָּנָא חֲדָא: יִרְעוּ, וְתָנָא חֲדָא: יַקְרִיבוּ, וְתַנְיָא אִידָךְ: יָמוּתוּ.

§ The Gemara returns to the earlier discussion. The *baraita* teaches: If **two** animals **emerged** from the pen together **as the tenth,** and one did not come out before the other, and he called them both the tenth, the tenth and eleventh animals are intermingled with each other. The Gemara notes that there is apparently a dispute between *tanna'im* as to how these animals must be treated. **One *tanna*** taught that both animals must be left to **graze** until they develop a blemish, and then they may be eaten by the owner. **And one *tanna*** taught that both animals must **be sacrificed. And** it **is taught** in **another** *baraita* that both animals **must die.**

לָא קַשְׁיָא, הָא דְּתָנָא יִרְעוּ – רַבָּנַן הִיא, דְּאָמְרִי: אֵין מַבִּיאִין קָדָשִׁים לְבֵית הַפְּסוּל.

The Gemara resolves the apparent contradiction. It is **not difficult: This** ruling, of the *tanna* **who taught** that both animals must be left to **graze** until they develop a blemish, **is** in accordance with the opinion of **the Rabbis, who say: One may not bring sacrificial** animals **to a situation** where the time in which they may be eaten is decreased, thereby increasing **the** likelihood of **disqualification.** If both animals were to be sacrificed they would have to be eaten in accordance with the stringencies of both the animal tithe offering and the peace offering. They would have to be eaten within two days, like a peace offering, while the breast and the thigh would be given to the priests, as in the case of an animal tithe offering. Since only priests may eat those portions it is possible that they would be unable to eat them within the permitted time, and the remaining meat would become disqualified.

Perek **IX**
Daf **61** Amud **a**

וְהָא דְּתָנֵי: יַקְרִיבוּ – רַבִּי שִׁמְעוֹן הִיא, דְּאָמַר: מַבִּיאִין קָדָשִׁים לְבֵית הַפְּסוּל.

And the ruling of **this** *tanna*, **who teaches:** Both animals must **be sacrificed, is** in accordance with the opinion of **Rabbi Shimon, who says** that **one may bring sacrificial** animals **to a situation** where **the** likelihood of **disqualification** is increased.

וְהָא דְּתָנֵי: יָמוּתוּ – רַבִּי יְהוּדָה הִיא, דְּאָמַר: טָעוּת מַעֲשֵׂר – תְּמוּרָה הָוְיָא; וְקָסָבַר רַבִּי יְהוּדָה: תְּמוּרַת מַעֲשֵׂר – מֵתָה.

And the ruling of **this** *tanna*, **who teaches:** Both animals **must die, is** in accordance with the opinion of **Rabbi Yehuda, who says:** When the owner makes **a mistake** in designating animal **tithe,** e.g., if one designates the ninth animal as the tenth, the designated animal has the status of **a substitute** animal. And **Rabbi Yehuda holds** that **a substitute for** an animal **tithe must** be left to **die.** Since it is uncertain which animal is the eleventh, both are left to die.

וְקָסָבַר רַבִּי יְהוּדָה תְּמוּרַת מַעֲשֵׂר מֵתָה? וְהָתְנַן, אָמְרוּ מְשׁוּם רַבִּי מֵאִיר: אִילּוּ הָיָה תְּמוּרָה לֹא הָיָה קָרֵב; מִכְּלָל דְּרַבִּי יְהוּדָה סָבַר: קָרֵב!

The Gemara asks: **And does Rabbi Yehuda hold** that **a substitute for** an animal **tithe must die? But didn't we learn** in the mishna: The Sages **said in the name of Rabbi Meir,** in response to the statement of Rabbi Yehuda: The eleventh animal is not considered a substitute for the animal tithe, since **if it were a substitute it would not be sacrificed,** as the substitute for an animal tithe is not sacrificed? **By inference, Rabbi Yehuda holds** that the eleventh animal is **sacrificed,** and not put to death, despite the fact that it has the status of a substitute animal.

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וְכִי תֵּימָא: רַבִּי מֵאִיר לְמַאי דְּסָבִירָא לֵיהּ קָאָמַר – וְהָתַנְיָא: אֵין בֵּין אַחַד עָשָׂר לִשְׁלָמִים, אֶלָּא שֶׁזֶּה עוֹשֶׂה קְדוּשָּׁה לִיקָּרֵב, וְזֶה אֵין עוֹשֶׂה קְדוּשָּׁה לִיקָּרֵב, דִּבְרֵי רַבִּי יְהוּדָה; קָדוֹשׁ לִיקָּרֵב הוּא דְּלָא הוּא עָבִיד, הָא אִיהוּ גּוּפֵיהּ – קָרֵיב!

The Gemara continues: **And if you would say** that **Rabbi Meir is saying** his statement according **to what he** himself **holds,** and therefore nothing can be inferred from his comment with regard to the opinion of Rabbi Yehuda, that cannot be so; **but isn't it taught** in a *baraita*: **The difference between** the **eleventh** animal mistakenly designated as animal tithe **and a peace offering is only that this,** the peace offering, **renders** a substitute **sanctified to** the extent that it can **be sacrificed, but that,** the eleventh animal mistakenly designated as animal tithe, does **not render** its substitute **sanctified to be sacrificed;** this is **the statement of Rabbi Yehuda?** The Gemara infers: **It is** stated only that the eleventh animal mistakenly designated as tithe **does not render** its substitute **sanctified** with enough sanctity **to be sacrificed,** which indicates the eleventh animal **itself is sacrificed** and not put to death.

וְעוֹד, דְּתַנְיָא: ״אִם מִן הַבָּקָר״ – לְרַבּוֹת אַחַד עָשָׂר לִשְׁלָמִים.

And furthermore, there is a source that indicates that Rabbi Yehuda holds that a mistakenly designated animal tithe is sacrificed, **as it is taught** in a *baraita* in the *Sifra*: "And if his offering be a sacrifice of peace offerings: **If** he sacrifice **of the herd,** whether male or female, he shall sacrifice it without blemish before the Lord" (Leviticus 3:1). This serves **to include** the **eleventh** animal mistakenly designated as tithe; it must be sacrificed **as a peace offering.**

יָכוֹל שֶׁאֲנִי מְרַבֶּה אַף הַתְּשִׁיעִי? אֲמַרְתָּ: וְכִי הֶקְדֵּשׁ לְפָנָיו מְקַדֵּשׁ אוֹ לְאַחֲרָיו מְקַדֵּשׁ? תְּיוּ אוֹמֵר – לְאַחֲרָיו מְקַדֵּשׁ.

One **might** have thought **that I include even the ninth** animal mistakenly designated as the tithe. **You say** in rejection of this suggestion: **But does consecration sanctify** a substitute **before** the original animal is sanctified, **or** does it **sanctify** only **after** the original animal is sanctified? **You must say** that it **sanctifies** only **after** the original animal is sanctified. If so, only the eleventh animal is sacrificed as a peace offering, but not the ninth.

סְתָם סִיפְרָא מַנִּי – רַבִּי יְהוּדָה, וְקָתָנֵי: ״מִן הַבָּקָר״ – לְרַבּוֹת אַחַד עָשָׂר לִשְׁלָמִים!

And **who is** the author of the **unattributed** statement in the ***Sifra*?** It is **Rabbi Yehuda.**[B] **And** the *baraita* **is teaching** that the verse: "If he sacrifice **of the herd,** whether male or female, he shall sacrifice it without blemish before the Lord," serves **to include** the **eleventh** animal mistakenly designated as tithe, i.e., to teach that it must be sacrificed **as a peace offering.** Evidently, Rabbi Yehuda does not hold that the eleventh animal mistakenly designated as tithe must die.

אֶלָּא תִּרְגְּמָהּ רַבִּי שִׁמְעוֹן בְּרַבִּי אַבָּא קַמֵּיהּ דְּרַבִּי יוֹחָנָן: בְּמַעֲשֵׂר בַּזְּמַן הַזֶּה עָסְקִינַן, וּמִשּׁוּם תַּקָּלָה.

If so, in accordance with whose opinion is the *baraita* that rules that in a case where two animals emerged together as the tenth, and the owner called them both the tenth, they must both die? It cannot be in accordance with the opinion of Rabbi Yehuda. **Rather, Rabbi Shimon, son of Rabbi Abba, interpreted** that *baraita* **before Rabbi Yoḥanan: We are dealing with** animal **tithe in the present** time,[H] **and** the animals must die **due to** concern that **a mishap** might occur,[N] as one might shear them or put them to work, or eat them before they develop a blemish.

אִי הָכִי, מַאי אִירְיָא תְּרֵי? אֲפִילּוּ חַד נַמִּי! לָא מִיבָּעֲיָא קָאָמַר, לָא מִיבָּעֲיָא חַד – דְּלֵית לֵיהּ פְּסִידָא, אֲבָל תְּרֵי, כֵּיוָן דְּנָפְשִׁי פְּסִידָא – לִישְׁהֵינְהוּ עַד דְּנִיפּוֹל בְּהוּ מוּמָא, וְלִיכְלִינְהוּ – קָא מַשְׁמַע לָן.

The Gemara asks: **If so, why** is the *baraita* referring **specifically** to a case where **two** animals left the pen at the same time? The same would hold true **even** with regard to **one** animal designated as tithe, as it cannot be sacrificed nowadays. The Gemara answers: The *tanna* **is speaking** utilizing the style of: **It is not necessary. It is not necessary** to teach that in a case where **one** animal was designated as tithe it must die, **as there is no** major financial **loss. But** in a case where **two** animals were designated as tithe, **since the loss is great** one might think **he should leave them until they develop a blemish, and** then **eat them.** Therefore, the *tanna* **teaches us** that even in a case where two animals were designated as tithe, both must die.

BACKGROUND

The author of the unattributed statement in the *Sifra* is Rabbi Yehuda – סְתָם סִפְרָא...רַבִּי יְהוּדָה: There is a difference between the assertion that an unattributed statement in the *Sifra* reflects Rabbi Yehuda's opinion and similar statements that a certain Sage edited a rabbinic text. A Sage who edited a book is not required to agree with everything the volume contains. According to the Rambam, the *Sifra*, also known as *Torat Kohanim*, was edited by Rav and not by Rabbi Yehuda. However, the assertion that an unattributed statement in the *Sifra* reflects Rabbi Yehuda's opinion indicates that although he did not edit the *Sifra*, the unattributed teaching is in accordance with his opinion (see Baḥ and Rashash).

NOTES

We are dealing with tithe in the present time and they must die due to concern that a mishap might occur – מַעֲשֵׂר בַּזְּמַן הַזֶּה עָסְקִינַן וּמִשּׁוּם תַּקָּלָה: The commentaries note that this chapter began by teaching, citing Rav Huna, that animal tithe is not separated at all in the present. They explain that here the Gemara is referring to the *halakha* in a case where one did tithe his animals after the fact (*Tosafot*). Conversely, Rashi writes that the *tanna* of this *baraita* disagrees with the earlier opinion and holds that one is obligated to tithe his animals in the present day. The later commentaries discuss why Rashi explains Rav Huna's reasoning not in accordance with the earlier conclusion of the Gemara (see *Noda BiYehuda*). It is clear from other sources that people did separate animal tithe in the time of the Mishna and even in the time of the Gemara. The Gemara's earlier discussion might be referring to a later period.

HALAKHA

Tithe in the present time – מַעֲשֵׂר בַּזְּמַן הַזֶּה: The Rambam writes that although the Sages prohibited separating animal tithe in the present day, if one transgressed and separated tithe from his animals, the animal designated as tithe has the sanctity of tithe and may be eaten only once it has developed a blemish. This statement apparently contradicts the conclusion of the Gemara here, and the later commentaries analyze the Rambam's ruling in depth (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 6:2).

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HALAKHA

One who says to his agent, go and separate animal tithe on my behalf – הָאוֹמֵר לִשְׁלוּחוֹ צֵא וְעַשֵּׂר עָלַי: If one appoints an agent to separate tithe from his animals and the agent mistakenly designates the ninth or the eleventh animal as the tenth, only the tenth animal is sanctified, as the agent was not appointed to make errors and cause loss but to sanctify appropriately. This ruling is in accordance with the opinion of Rav Pappa (Rambam *Sefer Korbanot*, *Hilkhot Bekhorot* 8:2).

One who says to his agent, go and separate *teruma* – הָאוֹמֵר לִשְׁלוּחוֹ צֵא וּתְרוֹם: An agent who was instructed to separate *teruma* must do so in accordance with the owner's intent. If he knows the owner is miserly he separates one-sixtieth. If he is aware that the owner is generous he separates one-fortieth. And if he does not know the intent of the owner he separates an intermediate amount, i.e., one-fiftieth. This *halakha* is in accordance with the mishna in *Terumot* 4:4 (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 4:7; *Tur*, *Yoreh De'a* 331).

אִיתְּמַר, הָאוֹמֵר לִשְׁלוּחוֹ: ״צֵא וְעַשֵּׂר עָלַי״, רַב פַּפִּי מִשְּׁמֵיהּ דְּרָבָא אָמַר: קָרָא לַחֲשִׁיעִי ״עֲשִׂירִי״ – קָדוֹשׁ, וּלְאַחַד עָשָׂר ״עֲשִׂירִי״ – אֵינוֹ קָדוֹשׁ. וְרַב פַּפָּא אָמַר: אֲפִילּוּ קָרָא לַתְּשִׁיעִי ״עֲשִׂירִי״ – אֵינוֹ קָדוֹשׁ, דְּאָמַר לֵיהּ: לְתַקּוֹנֵי שְׁדַרְתִּיךְ וְלָא לְעַוּוּתֵי.

It **was stated:** In the case of **one who says to his agent: Go and separate** animal **tithe on my** behalf,[H] **Rav Pappi says in the name of Rava:** If he **called the ninth** animal the **tenth, it is sanctified** and may not be eaten until it has developed a blemish. The owner is not particular about this error, as the animal is not rendered entirely prohibited. **But** if he designated the **eleventh** animal as the **tenth it is not sanctified** as a peace offering, as the owner would not tolerate losing the animal entirely. **And Rav Pappa** disagrees and **says: Even** if the agent **called the ninth** animal the **tenth it is not sanctified, as** the owner who sent him can **say to him: I sent you to** act for **my benefit and not to my detriment.** The authority to serve as an agent does not extend to a case where he acts to the detriment of the one who designated him.

וּמַאי שְׁנָא מֵהָא דְּתָנֵן: הָאוֹמֵר לִשְׁלוּחוֹ ״צֵא וּתְרוֹם״ – תּוֹרֵם כְּדַעַת בַּעַל הַבַּיִת.

The Gemara asks: **And** in **what** manner **is** the case of animal tithe **different from that which we learned** in a mishna (*Terumot* 4:4): With regard to **one who says to his agent: Go and separate** *teruma*,[H] the agent **separates** *teruma* **in accordance with the intention of the homeowner.** He must separate the amount that he assumes the owner would want to give, as there is no fixed measure that one must set aside as *teruma*. A generous person gives as much as one-fortieth of his produce as *teruma*, while a stingy person can give one-sixtieth.

אִם אֵינוֹ יוֹדֵעַ דַּעְתּוֹ שֶׁל בַּעַל הַבַּיִת – תּוֹרֵם בְּבֵינוֹנִית אֶחָד מֵחֲמִשִּׁים; פִּיחֵת עֲשָׂרָה אוֹ הוֹסִיף עֲשָׂרָה – תְּרוּמָתוֹ תְּרוּמָה?

The mishna continues: **If he does not know the intention of** the **homeowner he separates an intermediate** measure, i.e., **one-fiftieth** of the produce. If **he subtracted ten** from the denominator and separated one-fortieth of the produce, **or added ten** to the denominator and separated one-sixtieth, **his *teruma*** is considered ***teruma*.** In this case too, the owner should also be able to say he did not send the agent to act to his detriment, and therefore the act of separating *teruma* should not take effect.

אָמְרִי: הָתָם, כֵּיוָן דְּאִיכָּא דְּתָרֵים בְּעַיִן יָפָה, וְאִיכָּא דְּתָרֵים בְּעַיִן רָעָה – אָמַר: לְהָכִי אֲמַדְתִּיךְ. הָכָא – טָעוּתָא הִיא, אָמַר: לָא אִיבָּעֵי לָךְ לְמִיטְעֵי.

The Sages **say** in answer: **There,** with regard to *teruma*, **since there are** those **who separate *teruma* generously and there are** those **who separate *teruma* sparingly,** the agent can **say: I estimated that you** were one **such as this,** i.e., either generous or stingy. But **here,** with regard to animal tithe, **it is a mistake,** and therefore the owner can **say: I did not want you to make a mistake.**

הדרן עלך מעשר בהמה
וסליקא לה מסכת בכורות

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Summary of **Perek IX**

The mitzva of animal tithe is in effect both in Eretz Yisrael and outside of Eretz Yisrael. Animal tithe separated outside Eretz Yisrael is not brought to be sacrificed in the Temple, but is left until it develops a blemish and is then consumed by its owners. Theoretically, the mitzva of animal tithe applies both when the Temple is standing and when it is not standing. Nevertheless, in practice, animal tithe is not separated when the Temple is not standing due to concern that a mishap might occur, i.e., that one might eat the tithed animal before it develops a blemish.

Just as with regard to the separation of tithe of grain, animal tithe may be separated only from a group of animals of the same type. One may not separate tithe from a herd of cows for a flock of sheep or goats. Goats and sheep are considered the same type for the purposes of tithing. In addition, one may not separate animals born in one year for animals born in another year. For the purposes of animal tithe the year begins on the first of Tishrei.

Although the Torah juxtaposes animal tithe with tithe of grain, there are differences between them, e.g., it is not prohibited to use or slaughter one's animals before they have been tithed. Nevertheless, the Sages established fixed times for separating animal tithe. Once one of these dates arrives, an animal born prior to it may not be sold or slaughtered until it has been tithed. The three designated times are fifteen days before each of the three pilgrimage Festivals. The Sages chose these times so that there would be animals available to those ascending to Jerusalem for the Festivals.

One separates animal tithe only if he has at least ten newborn animals. If he has more than ten he brings them all into a pen and tithes them. Those that remain are left until the next designated time, to be tithed with the newly born animals. Animals join together for the separation of animal tithe only if they are within sixteen *mil* of each other. This is the distance at which a shepherd can keep an eye on the animals; he serves to combine them into a single herd or flock. If the animals are farther apart but there are other animals in between that are fit to be tithed, they combine all the animals into a single group. According to the conclusion of the Gemara this applies even if some of the animals are outside Eretz Yisrael and some are inside, and even if the Jordan River is between them.

Everyone is obligated in the mitzva of animal tithe: Priests, Levites, and Israelites. One is obligated to tithe only animals that were born under his ownership, not those that were purchased or given to him as gifts. Likewise, the obligation does not apply to animals belonging to partners. With regard to one who dies and leaves behind animals, if the inheritors have not yet divided the property of the deceased they are obligated to tithe, as the animals are still considered to belong to the deceased. Conversely, once they have divided the inheritance they have the status of purchasers,

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as they are considered to have purchased the rights to their share of the animals from one another, and therefore they are exempt from the tithe.

Animals in a herd or flock are tithed regardless of whether they are male or female, and regardless of whether they are blemished or unblemished. Even an animal that is unfit for sacrifice on the altar nevertheless receives the sanctity of the tithe. This includes an animal that has been used in committing a transgression, e.g., idolatry. Nevertheless, animals that are invalid as offerings for some other reason are exempt from animal tithe. This category includes crossbred animals, *tereifot*, animals born by caesarean section, orphaned animals, and those that are too young to be sacrificed.

How does one tithe his animals *ab initio*? He gathers them all into a pen that has a small opening. As they leave the pen he counts them, and the tenth animal is the tithe. He paints that animal with red paint and declares it the tithe. Even if he does not issue such a declaration, that animal is tithe by virtue of the fact that it was the tenth animal to leave the pen. Even if he counts his animals in some other manner, e.g., two at a time or by the hundred, every tenth animal is tithe. Nevertheless, he must perform some method of counting; if he had ten animals and simply removed one without counting, the animal is not tithe.

Many cases of uncertainty were discussed in the Gemara. What should one do if he has less than ten animals? What happens if a counted sheep jumps back into the pen? The Gemara's conclusion is that any animal that has been counted as part of a group of ten animals is exempt from being tithed again, provided it was fit to be tithed when it was counted. If one of those animals that was already counted jumps back into the pen the remainder of the animals in the pen are exempt from tithe, as it is uncertain which is the animal that has been tithed, and only a definite tenth animal can become tithe, not an uncertain tenth.

In general, an animal consecrated by mistake does not have sanctity. Despite this, the Torah declares that in the specific case of animal tithe even an animal mistakenly designated as the tenth has sanctity. In other words, if one erred and designated the ninth animal or the eleventh animal as the tenth, that animal is sanctified. Yet it does not have the sanctity of an actual tithe. The ninth animal is not sacrificed on the altar, but it may not be sheared or used for work, and may be eaten only once it develops a blemish. The eleventh animal is sacrificed as a peace offering. This *halakha* applies only to the ninth and the eleventh animals; the eighth and the twelfth cannot be sanctified by mistake. Furthermore, even the eleventh animal receives sanctity only if the designation of tithe was removed from the tenth animal. If the tenth animal was called the tenth, the eleventh animal is not sanctified, even if it too was designated as the tenth.

These were the main topics explored in this chapter. In passing, the Gemara discussed issues concerning the separation of *teruma* and tithes, as well as the status of the Jordan and Euphrates Rivers, and other rivers with regard to the *halakhot* of vows and immersion for ritual purity.

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Common **Acronyms**

Since the publication of the first volume of the *Koren Talmud Bavli* we have employed some transliterated acronyms, such as Rambam, to give the translation a more authentic flavor. These acronyms are used throughout this volume where they are well known and where the acronym helps readers easily identify the author in question. The following chart provides the full name of each author or work alongside its common acronym.

Acronym	Full Name
HaAri	Rabbi Yitzḥak Luria
Ba'al HaMaor	Rabbi Zeraḥya HaLevi
Baḥ	*Bayit Ḥadash*
Beur HaGra	Commentary of Rabbi Eliyahu of Vilna on the *Shulḥan Arukh*
Derashot Mahari Mintz	Homilies of Rabbi Yehuda Mintz
Derashot Ra'anaḥ	Homilies of Rabbi Eliyahu ben Ḥayyim
Geranat	Rabbi Naftali Trop
Gilyon Maharsha	Marginalia of Rabbi Shlomo Eiger
Gra	Rabbi Eliyahu of Vilna, the Vilna Gaon
Graḥ	Rabbi Ḥayyim Soloveitchik
Grib	Rabbi Yehuda Bakhrakh
Griz	Rabbi Yitzḥak Ze'ev Soloveitchik
Haggahot HaGra	Comments of Rabbi Eliyahu of Vilna on the Talmud
Haggahot Maharsha	Comments of Rabbi Shmuel Eliezer Eidels
Hassagot HaRa'avad	Comments of Rabbi Avraham ben David on the Rambam's *Mishne Torah*
Ḥida	Rabbi Ḥayyim David Azulai
Ḥiddushei Aggadot LaMaharal	*Ḥiddushei Aggadot* by Rabbi Yehuda Loew of Prague
Ḥiddushei Aggadot LaRashba	*Ḥiddushei Aggadot* by Rabbi Shlomo ben Adderet
Ḥiddushei HaGeranat	*Ḥiddushei* Rabbi Naftali Trop
Ḥiddushei HaGriz	*Ḥiddushei* Rabbi Yitzḥak Ze'ev Soloveitchik
Ḥiddushei HaRim	*Ḥiddushei* Rabbi Yitzḥak Meir of Gur
Ḥiddushei Ri Ḥaver	*Ḥiddushei* Rabbi Yitzḥak Isaac Ḥaver
Kitzur Piskei HaRosh	Abridged Halakhic Rulings of Rabbeinu Asher ben Rabbi Yeḥiel
Mabit	Rabbi Moshe ben Yosef di Trani

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Acronym	Full Name
Maharal	Rabbi Yehuda Loew of Prague
Maharam Alashkar	Rabbi Moshe Alashkar
Maharam Brisk	Rabbi Mordekhai Brisk
Maharam Ḥalawa	Rabbi Moshe Ḥalawa
Maharam Lublin	Rabbi Meir of Lublin
Maharam Mintz	Rabbi Moshe Mintz
Maharam of Rothenburg	Rabbi Meir of Rothenburg
Maharam Padua	Rabbi Meir of Padua
Maharam Schick	Rabbi Moshe Schick
Maharam Schiff	Rabbi Meir Schiff
Maharatz Ḥayyut	Rabbi Tzvi Hirsch Chajes
Mahari Abuhav	Rabbi Yitzḥak Abuhav
Mahari Bassan	Rabbi Yeḥiel Bassan
Mahari Beirav	Rabbi Ya'akov Beirav
Mahari ben Lev	Rabbi Yosef ben Lev
Mahari ben Malkitzedek	Rabbi Yitzḥak ben Malkitzedek
Mahari Berona	Rabbi Yisrael Berona
Mahari Kurkus	Rabbi Yosef Kurkus
Mahari Mintz	Rabbi Yehuda Mintz
Mahari Weil	Rabbi Ya'akov Weil
Mahariḥ	Rabbi Yeḥezkia ben Ya'akov of Magdeburg
Maharik	Rabbi Yosef Colon
Maharikash	Rabbi Ya'akov Castro
Maharil	Rabbi Ya'akov HaLevi Molin
Maharit	Rabbi Yosef di Trani
Maharit Algazi	Rabbi Yom Tov Algazi
Maharsha	Rabbi Shmuel Eliezer Eidels
Maharshal	Rabbi Shlomo Luria
Malbim	Rabbi Meir Leibush ben Yeḥiel Michel Wisser
Netziv	Rabbi Naftali Tzvi Yehuda Berlin
Nimmukei HaGrib	Comments of Rabbi Yehuda Bakhrakh on the Maharsha
Piskei HaRid	Halakhic Rulings of Rabbi Yeshaya di Trani the Elder
Piskei Riaz	Halakhic Rulings of Rabbi Yeshaya di Trani the Younger
Ra'ah	Rabbi Aharon HaLevi
Ra'anaḥ	Rabbi Eliyahu ben Ḥayyim
Ra'avad	Rabbi Avraham ben David
Ra'avan	Rabbi Eliezer ben Natan
Ra'avya	Rabbi Eliezer ben Yoel HaLevi
Rabbi Avraham ben HaRambam	Rabbi Avraham, son of the Rambam

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Acronym	Full Name
Rabbi Shlomo ben Rashbatz	Rabbi Shlomo, son of Rabbi Shimon ben Tzemaḥ Duran
Radak	Rabbi David Kimḥi
Radbaz	Rabbi David ben Zimra
Ralbag	Rabbi Levi ben Gershon
Ramah	Rabbi Meir HaLevi
Rambam	Rabbi Moshe ben Maimon
Ramban	Rabbi Moshe ben Naḥman
Ran	Rabbeinu Nissim ben Reuven of Gerona
Rashash	Rabbi Shmuel Strashun
Rashba	Rabbi Shlomo ben Adderet
Rashbam	Rabbi Shmuel ben Meir
Rashbatz	Rabbi Shimon ben Tzemaḥ Duran
Rashi	Rabbi Shlomo Yitzḥaki
Re'em Horowitz	Rabbi Elazar Moshe Horowitz
Rema	Rabbi Moshe Isserles
Ri HaLavan	Rabbeinu Yitzḥak ben Ya'akov of Prague
Ri Ḥaver	Rabbi Yitzḥak Isaac Ḥaver
Ri Migash	Rabbi Yosef Migash
Riaf	Rabbi Yoshiya Pinto
Riaz	Rabbi Yeshaya di Trani the Younger
Rid	Rabbi Yeshaya di Trani the Elder
Ridvaz	Rabbi Ya'akov David ben Ze'ev Wilovsky
Rif	Rabbi Yitzḥak Alfasi
Rim	Rabbi Yitzḥak Meir of Gur
Ritva	Rabbi Yom Tov ben Avraham Asevilli (of Seville)
Riva	Rabbeinu Yitzḥak ben Asher
Rivam	Rabbi Yitzḥak ben Meir
Rivan	Rabbi Yehuda bar Natan
Rivash	Rabbi Yitzḥak ben Sheshet
Rosh	Rabbeinu Asher ben Rabbi Yeḥiel
Shakh	*Siftei Kohen* by Rabbi Shabtai Cohen Rappaport
Shas	The Six Orders of the Mishna
She'elat Ya'avetz	Responsa of Rabbi Ya'akov Emden
Shela	*Shenei Luḥot HaBerit* by Rabbi Yeshaya HaLevi Horowitz
Siddur Rashi	Siddur compiled by Rashi's students
Sma	*Sefer Meirat Einayim* by Rabbi Yehoshua Falk
Smag	*Sefer Mitzvot Gadol* by Rabbi Moshe of Coucy
Smak	*Sefer Mitzvot Katan* by Rabbi Yitzḥak ben Yosef of Corbeil
Talmid HaRa'ah	A student of Rabbi Aharon HaLevi

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Acronym	Full Name
Talmid HaRashba	A student of Rabbi Shlomo ben Adderet
Tashbetz	Responsa of Rabbi Shimon ben Tzemaḥ Duran
Taz	*Turei Zahav* by Rabbi David HaLevi
Tosefot HaRosh	*Tosefot* of Rabbeinu Asher ben Rabbi Yeḥiel
Tosefot Ri HaLavan	*Tosefot* of Rabbeinu Yitzḥak ben Ya'akov of Prague
Tosefot Rid	*Tosefot* of Rabbi Yeshaya di Trani the Elder
Tur	*Sefer HaTurim* by Rabbi Ya'akov ben Asher
Tzlaḥ	*Tziyyun LeNefesh Ḥayya* by Rabbi Yeḥezkel Landau
Ya'avetz	Rabbi Ya'akov Emden

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